

The *Debs* Case:
Labor, Capital, and the Federal Courts
of the 1890s

by

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Contents

The <i>Debs</i> Case: A Short Narrative, 1
The town of Pullman, 1
A strike and boycott, 2
Management organizes, 3
Federal response, 4
A petition to the Supreme Court of the United States, 6
The Federal Courts and Their Jurisdiction, 9
U.S. Circuit Court for the Northern District of Illinois, 9
U.S. District Court for the Northern District of Illinois, 9
Supreme Court of the United States, 10
The Judicial Process: A Chronology, 11
Legal Questions Before the Courts, 13
Did the U.S. Circuit Court for the Northern District of Illinois have authority to issue an injunction against Eugene V. Debs and the officers of the American Railway Union? 13
Did the Sherman Anti-Trust Act of 1890 apply to labor unions as well as trusts and monopolies? 14
Did Eugene V. Debs and the other officers of the American Railway Union violate the injunction? 14
Did the U.S. Circuit Court for the Northern District of Illinois have the authority to hold Eugene V. Debs and other officers of the American Railway Union in contempt and to impose jail sentences? 15
Were Eugene V. Debs and other officers of the American Railway Union guilty of criminal conspiracy to obstruct interstate commerce? 16
Related Cases, 16
Legal Arguments in Court, 18
Lawyers for the U.S. government, 18
Lawyers for Debs and the American Railway Union, 19
Biographies, 21
John Peter Altgeld, 21
American Railway Union, 21
David J. Brewer, 22
Grover Cleveland, 23
Clarence Darrow, 24
Eugene V. Debs, 25
General Managers' Association, 27
Peter S. Grosscup, 27

The Debs Case: Labor, Capital, and the Federal Courts of the 1890s

Richard Olney,	29
George M. Pullman,	30
Lyman Trumbull,	31
United States Strike Commission,	32
William A. Woods,	33
Media Coverage and Public Debates,	34
Historical Documents,	40
Writ of injunction, U.S. Circuit Court for the Northern District of Illinois,	40
Correspondence of Attorney General Richard Olney,	42
Grand jury charge of Judge Grosscup, U.S. District Court for the Northern District of Illinois,	45
United States v. Debs et al., decision of the U.S. Circuit Court for the Northern District of Illinois,	47
Writ of habeas corpus,	49
Lyman Trumbull brief, of counsel for petitioner, in the Supreme Court of the United States,	50
Clarence Darrow brief and arguments for petitioner, in the Supreme Court of the United States,	51
Oral argument of Hon. Richard Olney, Attorney General, in the Supreme Court of the United States,	52
Opinion of the Supreme Court <i>In re Debs, Petitioner</i> ,	53
The Sherman Anti-Trust Act (excerpt),	56
Recommendations of the United States Strike Commission,	57
Eugene V. Debs to Jean Daniel Debs,	60
Eugene V. Debs on the role of the courts,	61
Norris-LaGuardia Act (excerpt),	63
Bibliography,	64

The *Debs* Case: A Short Narrative

In 1894, a strike against the Pullman Palace Car Company and a supporting boycott by railroad workers presented the federal courts with questions about workers' rights to organize protests against management and the government's authority to restrict the activities of labor unions. The Pullman Palace Car Company was the nation's largest manufacturer and operator of passenger railroad cars, and the supporting boycott of work on Pullman cars by the American Railway Union, a labor organization headed by Eugene V. Debs and open to all railroad workers, effectively stopped rail traffic in the United States from Chicago to the West Coast. Alarmed by the national impact of the strike and the outbreak of violence against railroads, the U.S. attorney in Chicago asked the U.S. Circuit Court for the Northern District of Illinois to stop Debs and his union from pursuing the boycott. The circuit court ordered the union officers to cease any activity that might prevent the operation of the railroads, and when the boycott continued, the circuit court cited Debs and other union officers for contempt and sentenced them to jail terms. U.S. attorneys throughout the nation, acting under directions from the U.S. Attorney General, secured similar orders against railway workers supporting the Pullman strike. The strike and boycott soon collapsed, and Debs turned to the federal courts to defend the union's ability to challenge employers. A sweeping decision of a unanimous Supreme Court would have a dramatic impact on striking workers for nearly forty years.

The town of Pullman

In 1880, the millionaire industrialist and businessman George Pullman established a company town, just south of Chicago, devoted to the production of railroad cars. Located on a tract near Lake Calumet, the town of Pullman was not an actual municipality but rather a two-square mile parcel of private property that Pullman's company owned, maintained, and used for manufacturing and for housing company employees. George Pullman also hoped his town would be a model for a cooperative community of workers and employers.

The town of Pullman was hardly an average community. Architects and managers for the company spent countless hours planning the town. Housing corresponded to employees' jobs. Freestanding houses were available for foremen and executives, while skilled and senior workers could rent tenements or row houses. The lowest-ranking laborers lived in a large cluster of rooming houses. In general, the brick structures with cellars, water and gas, and nicely painted living units were superior to what might have been found in most parts of Chicago. Employees of the company were not required to live in Pullman, and close to one-fourth of them lived in nearby towns where the rents were lower. Those who lived in Pullman received two checks—one

for their wages and the other for rent. When the checks were delivered, employees could simply endorse the rent check and return it to the company.

The town featured a church, a library, a shopping arcade, and a hotel named after Pullman's daughter, Florence. Regulations maintained town life in keeping with Pullman's moral vision of a proper and respectable town. Taverns were not allowed, and residents were required to keep up their apartments and houses. Some women worked in the upholstery shops and laundry, but, in general, men were to provide for their wives and families by working in the factory. Initially, tenements and row houses were to be just for families, but after the economic downturn of the mid-1880s, the company allowed families to accept boarders in their homes, and by 1892 half the housing units had at least one boarder.

Pullman wanted his town to exemplify the way industrial society could work with propriety and efficiency, and he was proud of his efforts. Between 1883 and 1893, his company published four books, complete with cutting-edge photography, extolling the accomplishments of the company and the town. Magazines and newspapers touted the town and accepted the company's self-appraisal. George Pullman enjoyed a reputation as a progressive who had appealingly imagined the future.

Only a skeptical few questioned the enterprise. Richard Ely, a professor of economics at Johns Hopkins University, visited the town and published a critical article in the February 1885 issue of *Harper's Monthly*. Ely acknowledged that the buildings and streets were pleasant and appealing, but he emphasized the way George Pullman and his company controlled everything. None of the workers felt like the town was really a home; they felt like they were living in a giant hotel. Ely likened Pullman himself to the German Kaiser or Russian Czar. What the town of Pullman truly represented, Ely complained, was the "establishment of the most absolute power of capital, and the repression of all freedom."

A strike and boycott

Many Pullman employees believed that labor organizations would serve their interests, despite the fact that the company forbade any union activity within the town of Pullman. Pullman workers in particular crafts (cabinetmakers, blacksmiths, and freight-car builders) formed unions in the 1880s, and the Knights of Labor, a national organization, also signed up 1,800 Pullman employees. In 1886, the Knights called a general strike in Chicago as part of their national campaign to secure an eight-hour day, and Pullman employees stayed away from work in support of the strike.

A national economic depression caught up with Pullman in the late summer of 1893. The company and town had avoided the effects of the depression for several months because of an unusual demand for railroad cars prompted by the Columbian Exposition, Chicago's World Fair, but eventually the market for new cars fell off. Pullman released workers and reduced by about one-third the wages of those who

remained. He refused, however, to lower the rent in the company housing. Wages and rents, Pullman thought, were separate matters.

After Pullman refused to listen to workers' grievances, representatives of the employees met into the early morning hours of May 11, 1894, in Turner Hall in nearby Kensington, and voted 42–4 to go on strike. Close to 3,000 Pullman workers walked off their jobs, saying they would not return until Pullman restored wages to the level of June 1893, or, at a minimum, reduced rents to balance the wage cuts. Pullman claimed that the working and living conditions of his employees were better than those of workmen elsewhere, and he refused all attempts at arbitration. The company closed its manufacturing facilities on the evening of May 11.

The American Railway Union sent officials to consult with the Pullman workers preparing to strike, but initially Debs' union did not join the strike. Debs worried that the strike could not succeed because the nation's depression had created large numbers of unemployed workers who would take the jobs of strikers in Pullman. Nevertheless, Debs encouraged the strikers at a meeting in Kensington, where he told the employees that George Pullman was "a rich plunderer" and urged them "to strip the mask of hypocrisy from the pretended philanthropist and show him to the world as an oppressor of labor."

One month after the strike began, leaders of the American Railway Union gathered in Chicago for an annual convention, and the Pullman strike became the most important issue on the agenda. The conventioners listened to speeches from striking Pullman employees, such as seamstress Jennie Curtis, who told them that "Pullman, both the man and the town, is an ulcer on the body politic." Convention delegates agreed that unless Pullman agreed to arbitration by June 26, 1894, members of the 150,000-person union would refuse to handle any Pullman cars or trains with Pullman cars. The unions' boycott would have a national impact because, in addition to selling Pullman cars to railroads, the company rented cars along with the services of conductors, cooks, and waiters. Thousands of Pullman cars and employees were in service throughout the country. Company executives, acting on George Pullman's orders, told the union representatives that the company would not enter into any discussions with union representatives, and the boycott began on June 26.

Management organizes

By late June, 40,000 workers had walked off their jobs and disrupted almost all rail lines west of Chicago, where union organization had been strongest. The General Managers' Association, a consortium of railroads with lines in Chicago, aggressively challenged the strikers and, especially, the American Railway Union by firing all strikers and hiring replacements, and by seeking court restraining orders. The Association heightened tension and increased the likelihood of government intervention by refusing to drop any Pullman cars from its trains, thereby maximizing the disruption of commerce.

Railroad companies and local officials called on Illinois Governor John Altgeld to mobilize state militia to protect railroad property, but Altgeld, determined to lessen tensions, sent troops only when he was sure that violence was a real threat.

Federal response

In Washington, President Grover Cleveland met daily with advisers, including military leaders and Attorney General Richard Olney, who coordinated the federal response. The most dramatic federal action came on July 3, 1894, when, despite the lack of violence in Chicago, and over the protests of Governor Altgeld, President Cleveland ordered federal troops to Chicago, where they camped along the lakefront and patrolled the rail yards to prevent blockades of the trains.

Olney had already initiated a legal strategy against the leaders of the strike and the boycott. The Attorney General appointed Edwin Walker as a special deputy U.S. attorney in the Northern District of Illinois. Walker was a long-time attorney for a railroad company, and he and U.S. Attorney Thomas Milchrist, in consultation with Olney, devised a combination of civil and criminal actions to disrupt the labor union's boycott of the railroads. Debs later told a federal commission established to investigate the strike, "The men went back to work, and the ranks were broken, and the strike broken up . . . simply and solely by the action of the United States courts in restraining us from discharging our duties as officers and representatives of the employees."

Government attorneys initiated the most important civil proceedings on July 2 in the U.S. Circuit Court for the Northern District of Illinois. Encouraged by Attorney General Olney, the U.S. attorney in Chicago filed in the federal circuit court a complaint alleging that Debs and other officers of the American Railway Union (ARU) had conspired to interfere with the transportation of the mails and to violate the Sherman Anti-Trust Act of 1890, which prohibited any collaborative action "in restraint of trade or commerce among the several states." The U.S. attorney asked the court to issue an injunction that would order Debs and the union officers "to desist and refrain" from any joint action to interfere with the business of twenty-two named railroad companies.

The court issued an injunction so broad in its application that the *New York Times* referred to it as a "Gatling gun on paper." The court order prevented the union officers from almost any activity related to the boycott of trains with Pullman cars and from any communication that might encourage someone to participate in the boycott. In addition to delivering the injunction to the union officers cited, the U.S. marshal published it in newspapers, distributed public copies, and ordered it read before assembled strikers. U.S. attorneys secured similar injunctions in other states affected by the Pullman strike and boycott, and marshals recruited thousands of deputies who might be used to enforce the injunctions.

Debs and other union officers soon faced both a grand jury inquest for criminal conspiracy to disrupt mail delivery and interstate commerce and the threat of jail time for alleged violations of the injunction. On July 17, Judge William Seaman, sitting in the U.S. circuit court, ordered Debs, ARU Vice President George W. Howard, ARU Secretary Sylvester Keliher, and ARU newspaper editor Lewis W. Rogers held pending a further hearing on the U.S. attorney's assertion that the officers violated the injunction. The defendants waived bail and were temporarily sent to the Cook County jail in the heart of downtown Chicago.

The defendants' lawyers, now joined by the famed Clarence Darrow, denied that Debs and the officers had done anything to disrupt commerce or to incite violence. They also challenged the court's authority to issue the injunction. The Sherman Anti-Trust Act authorized the use of injunctions against obstructions of commerce, but the defense attorneys denied that the act, which had been passed to restrict large corporate monopolies, could apply to a labor union. The government attorneys presented telegrams as evidence that the union officers continued to communicate with striking workers after the injunction, and they argued that the strike had created a public nuisance, which was an established criteria for a court injunction.

(Injunctions were orders of courts exercising a long-standing type of jurisdiction called equity. Equity jurisdiction, which had originated in medieval England and was recognized in the U.S. Constitution, differed from jurisdiction based on statute or common-law traditions. Equity jurisdiction was based on established rules of fairness rather than specific laws and allowed judges to order or prohibit certain actions, often to prevent irreparable harm to private property. Equity has not been a separate area of jurisdiction in the federal courts since 1937, but this complicated area of the law was the subject of public debate in the late-nineteenth century because federal courts increasingly relied on it to prohibit strikes and to punish people who had not been found guilty by a jury.)

On December 14, 1894, after what he described as "protracted and painstaking" deliberation, Judge William A. Woods affirmed nearly every argument of the government attorneys and ruled that the injunction had been properly issued. Woods concluded that the court had authority to issue the injunction in response to a public nuisance, to protect the delivery of the mails, and to enforce the Sherman Anti-Trust Act. That act, Woods concluded, prohibited any combination of people in restraint of trade, whether corporate officers or laborers. Woods sentenced Debs to six months imprisonment and the other officers to three months.

The criminal prosecution of Debs and other union officers ran parallel to the proceedings related to the injunction and contempt. Thomas Milchrist doubted that the government could establish the evidence for conviction, but Edwin Walker, as he reported to the Attorney General, wanted to pursue criminal indictments because he believed they would have "a greater restraining effect upon Debs and his followers than our proceedings by injunction." Walker thought the results of the trial "of

little importance” and acknowledged that there might not be need for a trial, but he wanted a grand jury to investigate everyone involved in any disruption of the mail. On July 10, soon after the injunction was issued by the circuit court, the U.S. attorney presented a grand jury in the U.S. District Court for the Northern District of Illinois with evidence that Debs and the other officials of the American Railway Union engaged in a criminal conspiracy to disrupt mail delivery. In his charge to the grand jury, Judge Peter S. Grosscup said that an agreement by two or more individuals to encourage railroad workers to strike would constitute a conspiracy to interfere with the delivery of the mails and with interstate commerce. The grand jury indicted Debs, Howard, Keliher, and Rogers, all of whom were released on bail. The same grand jury indicted nearly seventy people on similar conspiracy charges, and throughout the country other grand juries indicted people involved in the Pullman strike.

The criminal trial of Debs and the ARU officers began in the U.S. district court in Chicago on January 24, 1895, but it would remain a side show to the other court proceedings. Clarence Darrow argued that the defendants had a legal right to organize a strike of their union members and that they never incited any violence or disruption of the mails. The railroad managers, Darrow reminded the court, had chosen not to move the trains from which Pullman cars had been removed. Milchrist, supported by the judge, insisted that he need only demonstrate that the violence and disruption of the mails was a logical consequence of the strike organized by the American Railway Union.

Debs offered testimony of his involvement in the Pullman strike and repeatedly stated that neither he nor any other union officers had incited any violence. The defense attempts to subpoena George Pullman were met by repeated messages that he was not in the office or had left town.

Darrow was convinced that the jury would acquit the defendants, but the case never went to the jury. When a juror became ill and was dismissed by Judge Grosscup, Grosscup discharged the other jurors and left the case to be retried at the discretion of the U.S. attorney. A year later the U.S. attorney entered a formal order indicating that he would drop the prosecution. Charges against most of the people indicted in Chicago and elsewhere had been dropped long before.

A petition to the Supreme Court of the United States

Before the start of the criminal trial, Debs and the American Railway Union officers appealed to the Supreme Court for a reversal of their jail sentences for contempt of the circuit court’s injunction. The Supreme Court agreed to hear arguments on their petition for a writ of habeas corpus, in which the defendants asserted that the injunction and the subsequent imprisonment were attempts to enforce a criminal law in an equity proceeding, where the defendants had no access to a jury, and that

the proceedings thus violated the Fifth and Sixth Amendment protections of due process and trial by jury.

At the oral arguments in March 1895, the galleries of the Supreme Court were jammed with spectators. The elderly and distinguished former senator, Lyman Trumbull, now joined the team of lawyers for Debs, and Trumbull argued that the Sherman Anti-Trust Act had not authorized the federal courts to use an injunction or other order in a court of equity to enforce a criminal statute. In his submitted brief previewing his oral arguments, Clarence Darrow offered a passionate defense of the right of workers to organize and strike in defense of fellow workers. He dismissed the government's attempt to distinguish between the Pullman workers' strike and the supporting boycott by the American Railway Union. If workers could not join together to protect their fellow laborers, the well-established right to strike would be meaningless. All of the telegrams and other evidence presented by the government attorneys demonstrated that Debs and the other union officers had urged only support for the strike and never did anything to incite violence.

The government attorneys were led by Attorney General Richard Olney, who insisted that criminal prosecutions were useless against "mobs of thousands of people" who obstructed interstate commerce and endangered private property. The government had a right, even a duty, to seek an injunction, which was the proper and the only practical way to restrain activities that threatened irreparable damage to private and public interests. To those who argued that only the owners of private property threatened by the violence could seek an injunction, Olney replied that the government had an interest in interstate transportation that was the equivalent of ownership. He also noted the executive branch's responsibility to enforce congressional statutes "enacting in substance that interstate railroad transportation shall be free."

On May 27, 1895, a unanimous Supreme Court, in an opinion written by Justice David J. Brewer, denied the petition for habeas corpus and held that the injunction and the contempt citation were proper. Brewer broadly defined the government's constitutional authority to prevent any obstruction of interstate commerce and to enforce "the full and free exercise of all national powers." "The strong arm of the national government" could prosecute those obstructing commerce and could mobilize the military to prevent interference with commerce, but the executive branch could avoid the use of force by calling on the federal courts to issue injunctions protecting potential damage to property and public interests. Without challenging the circuit court decision that defended the injunction as an enforcement of the Sherman Anti-Trust Act, the Supreme Court wanted to establish "broader ground" for the use of injunctions to remove any obstructions to interstate commerce. A court's issuance of an injunction usually depended on evidence of a threat to property, such as a railroad company's equipment or the government's mail, but Brewer wrote that the government also had a right to call on its courts for assistance in exercising its

responsibilities and in preventing “injury to the general welfare.” Brewer denied that punishment for contempt deprived the union officers of their right to a trial by jury because a court must possess the power to enforce its own orders.

Attorney General Richard Olney told his secretary that the Supreme Court “took my argument and turned it into an opinion,” but even Olney had not argued for as broad a reach of federal authority as that outlined by the Supreme Court. Clarence Darrow complained that the opinion in *In re Debs* “left the law so biased that, in cases involving strikes, at least, a man could be sent to prison for a crime without trial by jury.” Debs, now facing six months behind bars, characterized the decision as “absolutely in the interest of the corporations, syndicates, and trusts, which dominate every department of the federal government, including the Supreme Court.” “Every federal judge is now made a czar,” Debs added.

The injunction quickly became the most common legal strategy to curtail strikes, as prosecutions of union leaders for criminal conspiracy declined. Governor Altgeld warned that the *Debs* case would lead to “government by injunction.” Between 1880 and 1930, courts issued at least 4,300 labor injunctions, and new groups, such as the National Association of Manufacturers and the American Anti-Boycott Association, organized legal strategies to curtail boycotts and sympathetic strikes. The percentage of sympathetic strikes subject to injunctions increased from 15% in the 1890s to nearly 50% in the 1920s.

Organized labor responded with their own legal defense and with “Labor’s Bill of Grievances,” presented by the American Federation of Labor in 1906, but it would be more than a quarter century before Congress endorsed legislation to restrict the use of injunctions against labor strikes. The Norris-LaGuardia Act of 1932, drafted in part by Felix Frankfurter of Harvard Law School and a future justice of the Supreme Court, sharply limited the federal courts’ jurisdiction to issue injunctions and restraining orders in response to labor disputes. The act included a declaration of the public policy of the United States guaranteeing the rights of workers to organize for collective bargaining with management, and Congress specified the protected rights of strikers. Injunctions were permissible in labor disputes only when a court heard evidence of unlawful activity or of the possibility of irreparable harm that would be greater than that suffered by laborers if their activities were restrained. The act required a trial by jury in any proceeding to determine contempt of a labor injunction. In 1938, the Supreme Court upheld the Norris-LaGuardia Act.

The Federal Courts and Their Jurisdiction

U.S. Circuit Court for the Northern District of Illinois

The U.S. Circuit Court for the Northern District of Illinois issued the injunction to prohibit Debs and the union officers from any strike activity that might restrain interstate commerce or the transportation of the mails. The Sherman Anti-Trust Act of 1890 specifically granted the U.S. circuit courts authority “to prevent and restrain” any combination or conspiracy intended to restrain trade among the states. The Act also instructed U.S. attorneys to institute proceedings in equity to restrain any violations of the act, but Debs’ attorneys challenged the application of this act to labor unions.

The U.S. circuit courts, which were established by the Judiciary Act of 1789, had jurisdiction over federal crimes, over suits between citizens from different states, and over civil suits in which the United States was a party. For the first century of the federal government, the U.S. circuit courts were the most important trial courts in the federal system; they also exercised jurisdiction over some appeals from the district courts until 1891, when Congress established the U.S. circuit courts of appeal. From 1891 until they were abolished in 1911, the U.S. circuit courts were exclusively trial courts. A circuit judge, a Supreme Court justice assigned to the circuit, any district court judge in the circuit, or some combination of two of those judges, could preside in the circuit courts.

The Sherman Anti-Trust Act authorized the U.S. circuit courts to issue injunctions against combinations or conspiracies that obstructed interstate commerce. U.S. Circuit Court Judge William A. Woods was the presiding judge sitting with U.S. District Court Judge Peter S. Grosscup when the government sought its injunction against Eugene V. Debs and the other officers of the American Railway Union. William Seaman, a district judge in the Eastern District of Wisconsin, presided in the circuit court in July 1894 and ordered Debs and the other officers held in custody for contempt of the injunction. Woods heard arguments on the contempt order and upheld the order in December 1894.

U.S. District Court for the Northern District of Illinois

Debs and his fellow officers of the American Railway Union were indicted on charges of criminal conspiracy by a grand jury in the U.S. District Court for the Northern District of Illinois. District Judge Peter S. Grosscup presided over the trial in January 1895 and dismissed the jury on February 8, 1895, after one of the jurors became too ill to serve. Grosscup’s order allowed prosecutors to retry the case, but a year later

the U.S. attorney entered a *nolle prosequi* order, formally announcing no further intention to prosecute.

The U.S. district courts were established by the Congress in the Judiciary Act of 1789 and serve as trial courts in each of the federal judicial districts. The U.S. District Court for the Northern District of Illinois was established in 1855, when Congress divided Illinois into two judicial districts. The U.S. attorney's office in the Northern District of Illinois initiated a criminal conspiracy prosecution under the authority of section 1 of the Sherman Anti-Trust Act of 1890, which provided criminal penalties for conspiracy in restraint of trade or commerce between the states. The district courts shared criminal jurisdiction with the circuit courts, except in capital cases, which were the exclusive jurisdiction of the circuit courts.

Supreme Court of the United States

After U.S. Circuit Court Judge William A. Woods upheld the injunction and subsequent contempt citation, lawyers for Eugene V. Debs and the American Railway Union officers petitioned the Supreme Court of the United States for a writ of error and a writ of habeas corpus. The Supreme Court accepted the petition for a writ of habeas corpus and heard arguments on the decision of the circuit court to jail the union officers for alleged violation of the injunction. The Judiciary Act of 1789 gave the Supreme Court authority to hear habeas petitions, and later decisions of the Supreme Court limited these petitions to appeals of decisions by lower federal courts. Justice David J. Brewer, who had been a lawyer and judge in Kansas before being appointed to the Supreme Court, wrote the unanimous decision in *In re Debs*, in which the Court upheld the contempt citation and affirmed the authority of the federal courts to issue injunctions to protect interstate commerce and the transportation of the mails and to protect the general welfare.

Article III of the Constitution established the Supreme Court and granted the Court limited original jurisdiction. The Judiciary Act of 1789 granted the Supreme Court appellate jurisdiction over cases originating in the U.S. trial courts and over appeals of state supreme court decisions relating to questions of federal law and constitutionality. An act of 1891 established U.S. courts of appeals and granted the Supreme Court greater discretion to select cases it would hear.

At the time of the Debs case, Melville W. Fuller was the Chief Justice of the United States. Since 1869, the Supreme Court has been authorized to have nine justices.

The Judicial Process: A Chronology

May 11, 1894

Workers at the Pullman Palace Car Company went on strike to protest wage reductions and the company's refusal to lower rents of company-owned housing.

June 26, 1894

Members of the American Railway Union initiated a boycott of work involving Pullman railroad cars.

July 2, 1894

Acting in response to a complaint submitted by the U.S. attorney, Judges William A. Woods and Peter S. Grosscup, sitting in the U.S. Circuit Court for the Northern District of Illinois, issued an injunction directing Eugene V. Debs and other officers of the American Railway Union to cease all activity that might interfere with interstate commerce and the delivery of the U.S. mail.

July 3, 1894

President Grover Cleveland ordered federal troops into Chicago to ensure that trains would be able to move and to prevent threatened violence. Governor John P. Altgeld objected to the order, saying it was unnecessary.

July 10, 1894

A grand jury in the U.S. District Court for the Northern District of Illinois indicted Eugene V. Debs, George W. Howard, Sylvester Keliher, and Lewis Rogers for criminal conspiracy to interfere with the mail and interstate commerce.

July 17, 1894

In response to informations filed by the U.S. attorney and a railroad company, Judge William Seaman, sitting in the U.S. Circuit Court for the Northern District of Illinois, ordered Debs and the other union officers held on charges of contempt of the court's injunction.

December 14, 1894

U.S. Circuit Judge William A. Woods ruled in *United States v. Debs et al.* that Debs and other officers of the American Railway Union were in contempt of court for not abiding by the earlier injunction, and he sentenced them to jail terms. Debs and the officers appealed to the U.S. Supreme Court for a writ of error and a writ of habeas corpus

January 14, 1895

Criminal trial of Debs, Howard, Keliher and Rogers began in the U.S. District Court for the Northern District of Illinois.

February 12, 1895

After a member of the jury became seriously ill, Judge Peter S. Grosscup dismissed the jury and thereby ended the criminal trial.

March 25–26, 1895

Oral arguments on the petition for a writ of habeas corpus before the Supreme Court.

May 27, 1895

Justice David J. Brewer issued a unanimous decision of the Supreme Court upholding the contempt citation in the case of *In re Debs*.

March 12, 1896

U.S. attorney entered an order of *nolle prosequi*, formally ending the criminal prosecution of Debs and the other union leaders.

Legal Questions Before the Courts

Did the U.S. Circuit Court for the Northern District of Illinois have authority to issue an injunction against Eugene V. Debs and the officers of the American Railway Union?

Yes, said the U.S. Supreme Court in its decision written by Justice David J. Brewer.

On July 2, 1894, Judges William A. Woods and Peter S. Grosscup, sitting in the U.S. Circuit Court for the Northern District of Illinois, concluded that irreparable harm would be done to the railroads, interstate commerce, and mail delivery if the boycott of Pullman cars continued. The judges issued an injunction ordering Debs, American Railway Union officers, and unnamed others to cease any action that might interfere with the movement of railroads operating through Chicago.

Injunctions are orders directing somebody to do or not to do something. In British and United States courts, injunctions were generally limited to cases in which the person requesting the injunction could demonstrate that irreparable harm to private property would result without the court order, that no remedy was available based on law, and that criminal prosecution would not prevent the injury to the property.

On December 14, 1894, Judge Woods, in a decision affirming the contempt citation against the union officers for violating the injunction, justified the injunction as a proper method of protecting the government's property in the mails and cited other cases in which injunctions were used to prevent a public nuisance. Woods, as he had in the original injunction, also cited the Sherman Anti-Trust Act, which authorized the use of injunctions to prevent any obstruction of interstate commerce. The original conspiracy against the Pullman cars had become a conspiracy against "transportation and travel."

The Supreme Court asserted a much broader authority for the injunction based on the government's obligation to protect the general welfare of the nation. The Court agreed that the government's property interest in the mails was sufficient to justify the injunction, but the unanimous justices also asserted the courts' independent authority to rely on injunctions to prevent irreparable damage to public interests as well as private property.

Did the Sherman Anti-Trust Act of 1890 apply to labor unions as well as trusts and monopolies?

Yes, said the U.S. Circuit Court for the Northern District of Illinois.

The “Act to protect trade and commerce against unlawful restraints and monopolies” of July 2, 1890, better known as the Sherman Anti-Trust Act, granted the federal courts authority to issue restraining orders against combinations or conspiracies that restricted interstate trade. Although the supporters of the act wanted to limit the power of large corporate monopolies, by 1893 some federal courts accepted the act as authorization to restrain labor unions as well.

The U.S. attorney in Chicago cited the Sherman Anti-Trust Act in his request for an injunction against the American Railway Union, and the injunction issued by the circuit court relied in part on the authority of the act. Attorneys for Debs argued that the extension of the Sherman Act’s provisions to labor unions was an unconstitutional attempt to punish in a court of equity; they argued that these actions should only be subject to criminal prosecution decided by a jury, and there was no access to a jury in a court of equity. In Judge William A. Woods’ decision on the contempt citation, he concluded that the Sherman Act’s language regarding a “combination in the form of trust or otherwise” was meant to extend to any combination, including labor unions, or the word “otherwise” would not have been inserted by Congress.

In the Supreme Court, Justice David Brewer declined to address the authority granted by the Sherman Anti-Trust Act, but he insisted this should not be interpreted as a disagreement with the circuit court. The Supreme Court, Brewer added, thought it more important to focus on the “broader ground” for establishing the courts’ jurisdiction to issue injunctions against labor actions. In 1908, the Supreme Court, in *Loewe v. Lawlor* (the Danbury Hatters’ Case), decided that the Sherman Anti-Trust Act applied to all combinations in restraint of trade, including those presented by labor unions.

Did Eugene V. Debs and the other officers of the American Railway Union violate the injunction?

Yes, said the U.S. Circuit Court for the Northern District of Illinois.

On July 17, 1894, attorneys for the railroads and the federal government presented the U.S. circuit court with motions asserting that Debs and other union officers had failed to comply with the injunction and that they should be held in contempt of the court. The attorneys presented copies of telegrams from Debs to union members urging them to continue their strike and boycott. The comparison of telegrams from before and after the date of the injunction, the government attorneys insisted, proved

that the union officers had not changed or modified their actions in support of the strike.

Judge William H. Seaman, in the U.S. circuit court, ruled that the evidence demonstrated contempt, and he order the arrest and imprisonment of Debs and the officers. Lawyers for the union officers gained court approval for further arguments on the contempt citation.

In a series of hearings presided over by Judge Woods, the lawyers for Debs argued that the strike arose from a vote of the union membership rather than the officers' orders, that the officers had no knowledge of possible violence, that their communications with local union offices indicated no intention to obstruct interstate commerce, and that the officers had consulted with attorneys to ensure that their actions would not violate the injunction.

In his decision of December 14, 1894, Judge Woods found "voluminous" evidence of the union officers' violation of the injunction. Woods quoted newspaper interviews with Debs in which the union president said that the injunction would have no effect on his organization of the strike. Woods also concluded that Debs had not expected his warnings against violence to be taken seriously by workers. The union officers, Woods insisted, had full control over the strike and chose not to modify their plans after the injunction or after the appearance of violence.

Did the U.S. Circuit Court for the Northern District of Illinois have the authority to hold Eugene V. Debs and other officers of the American Railway Union in contempt and to impose jail sentences?

Yes, said the U.S. Circuit Court for the Northern District of Illinois and the U.S. Supreme Court.

Attorneys for Debs and the union officers argued that the imposition of jail sentences for contempt of the injunction violated the constitutional guarantee of a trial by jury. Since the union officers had already been indicted on charges of a criminal conspiracy to obstruct commerce, the jail sentence for contempt of the injunction also represented double jeopardy.

Judge William Woods declared that the Constitution granted the federal courts equity jurisdiction and that the power to punish for contempt of an equity order was an intrinsic part of that constitutional authority. Woods also asserted that the same act could constitute contempt and a crime and that an individual could be punished for both as long as the proceedings took place in the proper courts.

Justice David Brewer in the Supreme Court was even more emphatic that the authority of a court to issue an order carries with it the authority to punish for disobedience of that order and that the same act could result in both a civil order and a

criminal prosecution. Brewer concluded that the jail sentence was not an “invasion of the constitutional right of trial by jury.”

Were Eugene V. Debs and other officers of the American Railway Union guilty of criminal conspiracy to obstruct interstate commerce?

No decision was reached in the U.S. District Court for the Northern District of Illinois because the judge dismissed the jury, and the U.S. attorney chose not to retry the case.

Debs and his fellow union officers were indicted in the U.S. District Court for the Northern District of Illinois on charges of conspiracy to obstruct interstate commerce and to interrupt the delivery of the mails. In his instructions to the grand jury, Judge Peter Grosscup said that any combination of individuals to intimidate workers into striking would constitute a criminal conspiracy. Before the jury was dismissed, the U.S. attorney argued that the results of the strike, including the violence and the separation of Pullman cars from mail trains, were sufficient evidence of conspiracy. Debs testified that the activities of the union officers were all well within the recognized rights of striking workers.

Before the indictment of Debs and the others, special U.S. Attorney Edwin Walker wrote to the attorney general that “the results of a trial under the indictment will be of little importance”; the indictments alone would have the “restraining effect upon Debs and his followers.”

Related Cases

The use of injunctions against labor actions

The federal courts first issued injunctions against labor strikes during the railroad strikes of 1877, when some of the struck railroads were in bankruptcy and thus under the protective receivership of the federal courts. During the 1880s, federal courts directed injunction orders against strikers from other railroad companies in receivership. In 1888, federal courts relied on the authority of the recently enacted Interstate Commerce Act to issue injunctions against strikers at railroads that were not in bankruptcy. In 1893, William Howard Taft, as a circuit judge sitting in the Northern District of Ohio, affirmed that the Interstate Commerce Act granted the courts authority to issue injunctions against strikers who interfered with the interstate operation of railroads, and he narrowed the right to organize sympathy strikes or boycotts. In another case of 1893, the U.S. Circuit Court for the Eastern District of Louisiana became the first federal court to cite the Sherman Anti-Trust Act as au-

thority to issue an injunction against strikers. The Sherman Act became the preferred authority to use against labor strikes involving interstate commerce.

Loewe v. Lawlor—The Sherman Anti-Trust Act applied to unions

In *Loewe v. Lawlor*, better known as the Danbury Hatters' Case, the Supreme Court in 1908 decided that labor unions as well as corporate trusts were subject to the Sherman Anti-Trust Act's prohibition on combinations or conspiracies that restrained trade.

Members of the United Hatters of North America organized a boycott of hat manufacturers that had not unionized their shops. The much larger American Federation of Labor joined in support of the boycott. A Danbury, Connecticut, hat manufacturer, Dietrich Loewe, supported by the American Anti-Boycott Association, brought a suit in the U.S. Circuit Court for Connecticut on charges that the boycott presented a combination in restraint of interstate commerce, in violation of the Sherman Anti-Trust Act of 1890. When the judge in the U.S. Circuit Court for the District of Connecticut agreed with the union attorneys that the boycott did not constitute a combination under the terms of the Sherman Anti-Trust Act, attorneys for the hat manufacturers appealed to the U.S. court of appeals, which asked for instruction from the Supreme Court.

Chief Justice Melville Fuller, who wrote the opinion for a unanimous Supreme Court, said that the Sherman Anti-Trust Act made "no distinction between classes," and the act applied to any restraint of interstate commerce, even if the individuals named in the suit were not themselves involved in interstate commerce. Examining the congressional record, Fuller noted that the Congress had considered an exemption for farmers and laborers and decided to omit any such exception.

Justice David Brewer's decision for *In re Debs* offered no opinion on the application of the Sherman Act to labor unions, but it pointedly stated that no one should conclude that the Supreme Court differed with the U.S. Circuit Court for the Northern District of Illinois, which had ruled that the act applied to labor organizations.

Legal Arguments in Court

Lawyers for the U.S. government

1. In the July 2, 1894, request for an injunction against the labor leaders in the Pullman strike, the U.S. attorney argued that the strike presented a threat to the free flow of interstate commerce and the delivery of the mails, and that therefore the union leaders should be restrained by an injunction as authorized by the Sherman Anti-Trust Act of 1890.

U.S. Attorney Thomas Milchrist stated that almost 100,000 members of Debs' union had gone on strike and that twenty railroads were slowed or entirely stopped. Other unions supported the Pullman boycott and conducted wildcat strikes of their own. Violence broke out between union members and non-union railroad employees at rail yards. Trains carrying produce, meat, and passengers were halted, and in some areas trains carrying the U.S. mail could not get to their destinations.

2. In an information presented to the U.S. Circuit Court on July 17, 1894, the U.S. attorneys asserted that Debs and the other union officers had violated the injunction and were in contempt of the court.

The government attorneys contended that the union officers had not modified their leadership of the strike and had continued to urge American Railway Union members to block trains, to prevent men from working for the railroads, and to engage in violence and intimidation. The information said that the union leadership had full power to call or to end the strike. It also argued that the union leaders knew of the strike-related violence before the injunction was issued and that they knew that their support for continuing the strike would produce additional violence.

3. In arguments before the Supreme Court, Attorney General Richard Olney argued that the federal courts had authority to issue an injunction in restraint of the labor leaders in the Pullman strike and to punish for contempt of the injunction.

Olney argued that the Pullman strike presented all of the criteria for an injunction. The strikers could not be restrained by criminal prosecution, the strike threatened irreparable harm in the danger it presented to private property and to interstate commerce, and the strike threatened to undermine the government's rights and duties as the trustee of the nation's transportation system. Injunctions were usually issued

to protect private property, Olney acknowledged, but he said that the federal courts had long considered the government's control of the nation's highways the equivalent of ownership. Debs' acknowledgment that the orders of the federal court ended the strike was, for Olney, confirmation of the wisdom of the injunction.

Olney denied that the punishment for contempt of the injunction violated the right to a trial by jury. The same act may constitute a crime and present a threat to private property that calls for immediate restraint by an injunction.

Lawyers for Debs and the American Railway Union

1. Debs and the other officers of the American Railway Union had not violated the injunction and therefore could not be found in contempt.

The union officers' attorneys denied that their clients had the authority to call or to end a strike, as the government maintained, since only the rank and file membership could begin or end a strike. The attorneys also denied that the officers had sent any telegrams threatening workers who failed to join the strike and boycott against the Pullman Company. The officers had no prior knowledge of violence and sent no messages that sanctioned or encouraged violence, and the officers insisted that what violence there was had involved no union member participation. The telegrams submitted to the court as evidence of violation of the injunction in fact contained no reference to any obstruction of interstate commerce. The disruption of commerce, according to the union officers, resulted from decision of the railroad companies to halt all trains from which Pullman cars had been detached. The union officers had consulted with their counsels for advice on how best to abide by the injunction. In his brief submitted to the Supreme Court, Clarence Darrow noted that the information charging violation of the injunction did not include a single allegation of an illegal act on the part of the union officers, only that some illegal conduct followed the legal action of the union.

2. The jail sentence for contempt of the injunction deprived Debs and the union officers of their right to a trial by jury.

In the petition to the Supreme Court for a writ of habeas corpus, the union officers argued that the jail sentence for contempt of the injunction amounted to a conviction without an indictment and without a jury, and thus was a violation of the Fifth and Sixth Amendments to the Constitution. They alleged that the government had improperly sought an injunction as a means of punishing a violation of the criminal code without a jury trial.

3. The Sherman Anti-Trust Act authorization for injunctions against restraints of trade did not apply to labor unions.

The petition for the writ of habeas corpus argued that the Sherman Anti-Trust Act had no application to the facts stated in the injunction or in the information claiming violation of the injunction. Attorney Lyman Trumbull argued in the Supreme Court that the section of the Sherman Act conferring the authority to issue injunctions was unconstitutional because Congress could not grant the federal courts the power to impose criminal penalties in a proceeding in which there was no access to a jury trial.

4. The circuit court's holding of contempt effectively deprived workers of the right to organize and to strike.

In his brief to the Supreme Court, Clarence Darrow warned that the restrictions imposed on the union officers by the injunction and the contempt order effectively destroyed the workers' ability to organize and engage in any cooperative labor action. Darrow said that the court's distinction between a strike and a sympathetic boycott undermined the effectiveness of any cooperative labor action because it would disallow any strike except by those who were directly affected by grievances. The foundation of the labor movement was the ability to organize in support of one's fellow workers. The right to strike would be made meaningless as well by any attempt to hold workers criminally responsible for violence on the part of others. Darrow acknowledged that violence often resulted from strikes, but so too did it result from management decisions to cut wages or to lock out workers. In the current conflicts of industrial life, strikes were an indispensable defense of workers if they were to "unite for mutual defense, for the betterment of their condition, to work or to cease to work—in short, to be free men."

Biographies

John Peter Altgeld (1847–1902)

John Peter Altgeld was governor of Illinois during the Pullman strike and boycott. After immigrating to the United States from his native Germany, Altgeld served as a private in the Union Army and worked as a teacher and then as a lawyer in Missouri. He moved to Chicago in 1875, became active in the Democratic Party, and served as a judge of the Cook County Superior Court from 1886 to 1891. He was elected governor in 1892 with strong support from farm and labor groups. Believing that the Anarchists convicted in the notorious Haymarket Trial of 1886 had been denied a fair trial, he pardoned the three who remained incarcerated in 1893.

During the Pullman strike and boycott, Altgeld ordered companies of the state militia to Danville and Decatur with directions to quell rioting and to clear the way for rail traffic. This initiative seemed to produce calm, but President Grover Cleveland appeared unmindful of Altgeld's efforts and ordered federal troops into Illinois. Altgeld was outraged and complained to the President. The railroads, Altgeld thought, were disrupted not because men had blocked the traffic but rather because strikers and their sympathizers would not work for railroads carrying Pullman cars. Altgeld also protested when U.S. Attorney General Richard Olney and his assistants sought and obtained an injunction against Eugene V. Debs and the leadership of the American Railway Union.

Altgeld's opposition to the use of troops and the injunction made him a great hero to many reform-minded Democrats, but it also contributed to his defeat when he sought reelection in 1896. Altgeld, however, did not change his opinion. Before his death in 1902, he said the decision in *In re Debs* "marks a turning point in our history, for it established a new form of government never before heard of among men, that is, government by injunction." "The Constitution declares that our government has three departments," he said, "the legislative, judicial and executive, and that no one shall tread on the other, but under this new order of things a federal judge becomes at once a legislator, court and executioner."

American Railway Union

The American Railway Union was founded in Chicago on June 20, 1893, with the goal of uniting railway employees from all types of jobs into one giant union. The union founders believed that the trade unions to which different types of railroad workers belonged had been ineffective. These brotherhoods were plagued by petty jealousies and were unable to present a united front to the railroads. In light of the

railroads' growth and the concentration of railroad capital, the founders argued, the need for worker solidarity was especially great.

The American Railway Union had departments of education, legislation, cooperation, mediation, and insurance, and it included both a central office and local chapters. The central office, headed by nine directors, made policy for the entire union, but the local chapters were the first to consider specific complaints and demands made by members.

Large numbers of railroad workers joined the union in late 1893 and early 1894, and in the spring of 1894 the union struck the Great Northern Railroad because it had ordered three wage reductions in the preceding eight months. James T. Hill, the owner of the Great Northern, agreed to have arbitrators settle the dispute, and this victory led even more workers to join the union. Less than one year after its founding, the union had 465 local chapters and almost 150,000 members, thereby constituting one of the largest labor organizations in the country.

The union organized meetings just outside the town of Pullman and enlisted many Pullman workers. Members of the union attending the organization's first annual convention in Chicago voted in June 1894 to support the Pullman strike by refusing to move any trains that included Pullman cars. When rioting and violence followed, the federal government obtained an injunction against Eugene V. Debs and other officers of the union. The judge found these men in violation of the injunction and sentenced them to prison terms.

Even before the circuit court and the Supreme Court upheld the prison terms, the strike and boycott collapsed, and the union lost almost all of its members. When Debs completed his sentence in December 1895, he attempted to revive the union, but it was too late. Many who had belonged to the American Railway Union were black-listed and unable to find any railroad employment.

David J. Brewer (1837–1910)

David J. Brewer wrote the opinion for the unanimous Supreme Court in *In re Debs*, upholding the use of the injunction against the American Railway Union and affirming the circuit court's jail sentence for contempt of the injunction. Brewer was born in Smyrna, Asia Minor, where his parents were Congregational missionaries. He attended Wesleyan and Yale, and read law with his uncle, David Dudley Field, at the Albany Law School. Brewer moved to Kansas to practice law and was appointed a commissioner by the U.S. circuit court. He served on



Justice David J. Brewer

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the Supreme Court of Kansas for fourteen years, and in 1884 President Chester A. Arthur appointed him judge of the U.S. Circuit Courts of the Eighth Circuit. In 1890, President Benjamin Harrison appointed Brewer to the Supreme Court of the United States, and Brewer served until his death in 1910. Brewer was also the nephew of Stephen J. Field, who served on the Supreme Court from 1863 to 1897.

As a justice of the Supreme Court, Brewer restricted government regulation of the economy and was protective of state rights against the federal government. He protected the rights of individuals, particularly Chinese Americans, but he was very concerned about the rise of organized labor and other social movements. He advocated an active role for courts in the protection of private property and the curtailment of strikes, which he feared could lead to violent social revolution. In the *Debs* opinion, Brewer praised the government for using the courts rather than “the club of the policeman and the bayonet of the soldier.” At the end of his opinion he offered his general thoughts on law and legal institutions in American life. “It is a lesson which cannot be learned too soon or too thoroughly under this government of and by the people,” he said, “that the means of redress of all wrongs are through the courts and at the ballot-box, and that no wrong, real or fancied, carries with it legal warrant to invite as a means of redress the cooperation of a mob, with its accompanying acts of violence.”

Grover Cleveland (1837–1908)

Throughout the Pullman Strike, President Grover Cleveland convened daily meetings with cabinet members and advisors to discuss possible responses to the strike that increasingly disrupted railroads in large portions of the country. Despite advice of caution from the commander of the U.S. Army for the Chicago area, President Cleveland responded to the request from the federal marshal in Chicago and, on July 3, 1894, ordered federal troops into Chicago. Nationally, over 16,000 troops were mustered. The soldiers attempted to remove obstacles to rail traffic and arrested and sometimes shot boycotters and rioters. Cleveland based his order on Civil War-era statutes that authorized the President to use troops to suppress insurrections that threatened to disrupt the federal courts



President Grover Cleveland

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and the enforcement of federal law. Cleveland defended his decision against the repeated and vociferous objections of Illinois Governor Altgeld. Within days, Cleveland also ordered troops to protect railroad lines in western states and territories.

In late July, Cleveland acceded to requests from labor leaders and appointed a commission to study the causes of the Pullman strike and to recommend ways to avoid future railroad strikes.

Cleveland was born in New Jersey, the son of a Presbyterian minister, and he lived much of his adult life in Buffalo, New York, where he worked as a lawyer and became active in politics, briefly serving as mayor. In 1882, Cleveland was elected governor of New York, and in 1884 he defeated James G. Blaine in a close race for the presidency. Cleveland was the first Democrat to be elected President since before the Civil War, but he was popular among conservatives and businessmen in the Republican Party because he believed government should not interfere in economic affairs unless there was a threat to property rights or to law and order. In 1888, Cleveland won a majority of the popular vote in his reelection campaign, but he lost to the Republican Benjamin Harrison in the Electoral College. Then, in 1892, Cleveland defeated Harrison, becoming the only U.S. President to win a second but nonconsecutive term.

Clarence Darrow (1857–1938)

Clarence Darrow, one of the most famous defense lawyers in U.S. history, represented many unpopular and controversial clients throughout his career. Born in Ohio, he attended Allegheny College of Pennsylvania and the University of Michigan Law School. He first practiced law in Ohio and then moved to Chicago in 1887. In addition to practicing law, Darrow became involved in Illinois politics and became a close friend of John Altgeld, serving as an advisor in Altgeld's race for governor in 1892. In 1891, Darrow became an attorney for the Chicago and North-Western Railway and served on the General Managers' Association legal committee, but he withdrew from the committee when the Pullman strike began, and he took leave from his job to defend Debs and the other union officers. Darrow represented the union officers in the hearings on the contempt citation, in the criminal



Clarence Darrow

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conspiracy trial, and in the appeal of the contempt order to the Supreme Court. “I really wanted the men to win, and believed they should,” Darrow wrote later in his autobiography. “I knew that like all other men they were often selfish and unreasonable, but I believed that the distribution of wealth was grossly unjust, and I sympathized with almost all efforts to get higher wages and to improve general conditions for the masses.”

During the conspiracy trial, Darrow obtained and released records of the General Managers’ Association showing the managers had themselves conspired to break the union. When the court ended the prosecution because a juror was too ill to continue, Darrow claimed that a victory for the defense would have been certain.

In the Supreme Court, Darrow continued to argue for a cause in which he had come to believe deeply. He wrote one of the three briefs and made the closing oral argument for Debs. “When a body of 100,000 men lay down their implements of labor,” Darrow said, “not because their own rights have been invaded, but because the bread has been taken from the mouths of their fellows, we have no right to say they are criminals.”

In the years following the *Debs* case, Darrow was the defense attorney for many labor leaders, including “Big Bill” Haywood of the Western Federation of Miners, who had been accused of murdering the governor of Idaho. (Haywood was acquitted.) In the 1920s, Darrow gained new fame when he won a reprieve for his clients, Loeb and Leopold, who admitted to killing a child in an attempt to commit a “perfect crime.” In the highly publicized Scopes trial of 1925, Darrow defended a Tennessee teacher indicted for teaching evolution, and, although Scopes was convicted, Darrow further cemented his national reputation as one of the most powerful courtroom advocates of his age.

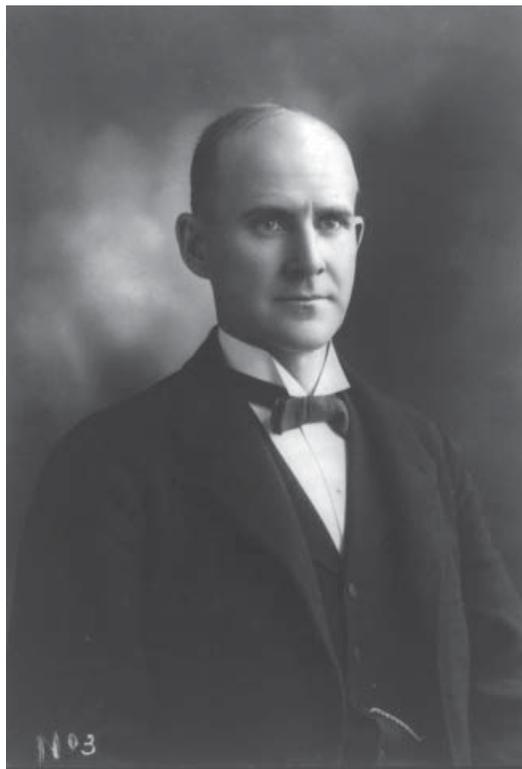
Eugene V. Debs (1855–1926)

Eugene V. Debs was born in Terre Haute, Indiana, the son of Alsatian immigrants who operated a grocery store. Debs quit school at the age of fourteen and worked as a railroad laborer, painter, and fireman. He became active in the local chapter of the Brotherhood of Locomotive Firemen and rose to leadership in the organization. As editor of the Brotherhood’s magazine, he gained a national reputation in the organization that remained a traditional labor association, as much focused on mutual support of members as on negotiations with management. After a series of labor disputes and strikes in the 1880s, Debs became disenchanted with labor organizations based on a single trade or craft. He helped to establish the American Railway Union, an “industrial union” that organized railroad workers across crafts for more effective advocacy of workers needs. Debs became president of the American Railway Union upon its founding in 1893.

Less than a year after its founding, the American Railway Union had 465 local chapters and over 150,000 members. A small number of the workers at the Pullman Palace Car Company were members, and they joined their fellow Pullman workers in the strike of 1894. Debs worried about the chances for success of a strike in the midst of a national depression, but he went to Pullman soon after the strike began and quickly concluded that the workers needed some organized action against the company. When the American Railway Union held its convention in Chicago a few weeks after the start of the strike, the delegates voted not only to support the strikers but also to refuse to move any Pullman railroad cars. This boycott disrupted rail service, and government lawyers obtained from a federal court an injunction ordering Debs and other officers of the American Railway Union from any action that might encourage strikers.

When Debs and the officers continued to communicate with local union chapters and the disruption of rail traffic spread, the U.S. circuit court ordered the arrest of Debs and the officers for violation of the injunction. The district court also indicted Debs and his fellow officers on charges of criminal conspiracy to disrupt interstate commerce. He petitioned for a writ of habeas corpus from the Supreme Court of the United States, but the Court ruled that the actions of the U.S. Circuit Court in the Northern District of Illinois were proper and constitutional. As a result, Debs served a six-month jail term.

The American Railway Union collapsed in the wake of the broken Pullman strike, but Debs remained involved in labor unions, and by the end of the decade he emerged as a leader of the Socialist Party of America. Debs was the presidential candidate of the Socialist Party in five elections between 1900 and 1920. During the First World War, Debs was again the center of a federal trial when he was convicted under the Espionage Act of 1917 for anti-war speeches. He was sentenced to ten years in prison but was released at Christmas 1921 by President Warren Harding. While in prison, Debs stood as the Socialist candidate for President and won 3% of the national vote.



Eugene V. Debs

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General Managers' Association

The General Managers' Association represented twenty-four railroad companies with terminals in Chicago. These railroad companies included some of the largest in the country and together constituted a major portion of the American railroad industry. Founded in 1886, the Association attempted to standardize equipment and procedures and to propose wage schedules for its employees. The schedules proved valuable in labor negotiations and began to approximate a national wage scale for railroad employees.

While George M. Pullman was the chief foe of the workers at his plant when they went on strike in 1894, the General Managers' Association became the chief foe of the American Railway Union and others when they boycotted Pullman cars. On June 26, 1894, Everett St. John, the chairman of the Association, announced that the boycott of Pullman cars would be resisted. The Association chose John M. Egan to lead the anti-boycott campaign, and Egan in turn hired private detectives to collect the names of railroad men who were supporting the boycott. Those men were fired, and the Association replaced them with workers recruited in the East. The country had plunged into a depression, and many unemployed men were only too happy to find work. The Association called them "replacement workers," but the American Railway Union members thought of them as "strike-breakers" or "scabs."

The General Managers' Association also took steps to turn public sentiment against the striking and boycotting workers. The Association urged members to attach Pullman cars to mail trains, freight trains, and even local commuter trains. When boycotters refused to move these trains because they included Pullman cars, service was halted, and the public grew increasingly hostile toward the strike and boycott.

Edwin Walker, special prosecutor for the federal government, met regularly with representatives of the Association to discuss legal actions against the strikers and the American Railway Union. George Peck, chair of the Association's legal committee, advised the government lawyers, and the government lawyers filed motions and requested rulings favorable to the Association. In the midst of the legal proceedings, however, Clarence Darrow, one of the attorneys for the American Railway Union, obtained and released embarrassing minutes from meetings of the Association. The minutes made clear the Association's determination not merely to counter the boycott but also to determine wages and eliminate the American Railway Union.

Peter S. Grosscup (1852–1921)

Peter S. Grosscup was born in Ashland, Ohio. He attended Wittenberg College and Boston Law School before returning to Ashland and practicing law there from 1873 to 1883. He made unsuccessful runs for Congress in 1876 and 1880, then moved to Chicago to continue his successful law practice. In 1892, Benjamin Harrison ap-

pointed Grosscup to the U.S. District Court of the Northern District of Illinois. Grosscup sat with Judge William A. Woods on the U.S. circuit court when it issued the injunction against Eugene Debs and the American Railway Union officers. Grosscup also presided at the ill-fated criminal prosecution of Debs, which ended in February 1895, when a juror became ill and Grosscup declared a mistrial. Grosscup had recused himself from the circuit court hearings on the contempt charges because the facts of the case were so closely related to the criminal trial. In 1899, President William McKinley appointed his old friend Grosscup to the U.S. Circuit Court of Appeals for the Seventh Circuit.

As he had on the district court, Grosscup continued to speak out on public affairs as a circuit judge. In the midst of the Pullman strike proceedings in July 1894, Grosscup had delivered a speech on “Labor and Property.” During the Spanish-American War, he publicly advocated the annexation of Cuba.

Although Grosscup was critical of the strikers and big labor unions, he also supported regulation of big trusts. In 1912, he backed Theodore Roosevelt’s presidential candidacy for the Progressive Party.

Grosscup also courted controversy with his private business affairs. As a circuit judge he appointed as a receiver to a bankrupt company his close friend and clerk of court. As president of a small railroad company, Grosscup was indicted with other officers in a criminal negligence case that arose out of an accident that killed fifteen people. Both cases prompted calls for impeachment, but President Roosevelt opposed the idea. When Grosscup announced that he would retire from the federal courts in the fall of 1911, a Chicago newspaper announced that the judge had been the subject of a two-year investigation by a magazine, and that officials of the Department of Justice had cooperated with the investigation, which focused on financial malfeasance. The magazine dropped its investigation when Grosscup threatened to withdraw his resignation, and Grosscup left the bench, stating that he was not interested in remaining as a circuit judge now that Congress had eliminated all trial duties for circuit judges. He moved to New York and returned to law practice.



Judge Peter Grosscup

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Richard Olney (1835–1917)

Richard Olney was the Attorney General of the United States during the Pullman strike and directed the government's litigation in the *Debs* case. Olney attended Brown University and the Harvard Law School, and he practiced law with former Massachusetts Supreme Court Justice Benjamin F. Thomas in Boston. Olney's frequent work for railroad companies led to his appointment as counsel and member of the board of directors for several railroads, and he worked to limit the effects of recent laws regulating the railroad companies.

When President Grover Cleveland appointed Olney U.S. Attorney General in 1893, Olney asked for and was given assurances that he could continue to provide legal services to his clients while serving in Washington, D.C. Olney had little political experience but he quickly became a trusted adviser to Cleveland. When the Cleveland administration turned to the federal courts in an effort to stop the Pullman strike and boycott, Olney selected railroad attorney Edwin Walker to be a special assistant U.S. attorney and to lead the efforts in Chicago. When Eugene V. Debs' attorneys petitioned the Supreme Court following his citation for violating the lower court injunction, Olney coordinated the briefs and oral arguments for the government and made one of his two appearances before the Court. When the Supreme Court subsequently ruled in the government's favor, Olney told his secretary that the Supreme Court "took my argument and turned it into an opinion."

After the Pullman strike and boycott ended, Olney learned that 3,600 loyal railroad employees had also served as special U.S. marshals. The government, he said, should be impartial in struggles between labor and capital, and the double-duty of the 3,600 employees made government look like "the paid agent and instrument of capital." Olney also endorsed the idea that the federal courts could serve as arbiters between railroad employees and railroad owners. Olney himself had remained on the payroll of a railroad company that was a member of the General Managers' Association. When the arrangement became public, he agreed to give up the salary but remained as a counsel for the company.



Attorney General Richard Olney

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On the day after the Supreme Court handed down its decision in *In re Debs*, Secretary of State Walter G. Gresham died, and President Cleveland asked Olney to accept the position. The Senate confirmed Olney's nomination two weeks later, and Olney served as Secretary of State through the remainder of the Cleveland administration.

George M. Pullman (1831–1897)

George M. Pullman was born in upstate New York, where his father owned and operated a small company that moved buildings. Pullman took over the company after his father's death and transferred the business to Chicago in the 1850s, when the booming city gave him opportunities for enormous success. Pullman used his newfound capital to enter various businesses, including the manufacture of railroad cars.

Pullman's earliest railroad cars won praise at the time of the Civil War, and he incorporated his railroad car business in 1867. With the backing of Andrew Carnegie, Pullman won contracts with leading railroad companies and bought out his leading competitor. By 1879, the Pullman Palace Car Company had gross annual earnings of \$2.2 million and annual net earnings of almost \$1 million. The company also built and operated passenger and sleeping cars that set new standards for comfort and luxury.

In 1880 Pullman decided to concentrate his manufacturing operations at a company town he developed south of Chicago. The town of Pullman offered a vision of corporate paternalism under which workers would rent housing and enjoy the civic institutions planned by the company's owner. The town of Pullman, built at a cost of \$8 million, offered workers brick housing, green parks, and social services that were strictly controlled by the company's management.

The Pullman Company faced several small walkouts in the early 1880s and a strike for an eight-hour day in 1886, but nothing on the scale of the labor dispute in 1894, when workers voted to leave their jobs in protest of the company's unwillingness to lower rents at the same time that it lowered wages. Pullman felt betrayed by his workers for whom, in his mind, he had provided so much, and he met only briefly with workers. When the 1894 strike led to a boycott of Pullman cars by members of the American Railway Union and others, Pullman still refused to negotiate with the workers in his company town. Eventually the strike collapsed and workers who quit the American Railway Union returned to work. Pullman thus prevailed in his immediate battle with labor, but during and after the strike, many criticized his inflexibility and insensitivity, and the paternalistic vision of the town of Pullman was irreparably damaged.

Pullman died of a heart attack in 1897. His estate was valued at \$17.5 million, and his will included a bequest of \$1.5 million for a manual training school for the children of his workers. Pullman's will also directed his heirs to coat his casket with

asphalt, sink it deeply into the ground, and then fill the entire grave with concrete. The great industrialist and millionaire George M. Pullman worried prior to his death that the workers he had defeated in 1894 would tear apart his corpse.

Lyman Trumbull (1813–1896)

Lyman Trumbull's public career extended from the sectional debates of the 1850s to the rise of Populism in the 1890s. Trumbull was born and educated in Connecticut, and he taught in Georgia for a few years before moving in 1836 to Illinois, where he entered law practice. After brief service in the state legislature, Trumbull served on the Illinois Supreme Court from 1849 to 1853. In 1854, he was elected to the U.S. House of Representatives, but before the start of his term he was elected by the state legislature to the U.S. Senate. Trumbull broke with the Democratic Party over the Kansas–Nebraska Act and the question of limiting slavery in the territories. By the end of his first year in the Senate, he had joined the Republican Party.

Trumbull supported a strong effort to defeat the seceded states, and he was among the first in Congress to advocate the emancipation of slaves as part of the Union's military strategy. As the long-time chair of the Senate Judiciary Committee, Trumbull was sponsor of the Thirteenth Amendment and key Reconstruction legislation. He often split with the Radical Republicans. Although he regularly opposed President Andrew Johnson's efforts to dilute Reconstruction policy, Trumbull was one of only seven Republicans who voted to acquit Johnson in his impeachment trial.



Lyman Trumbull

Brady-Handy Photograph Collection, Library of Congress,
Prints and Photographs Division [LC-DIG-cwpbh-03888]

Trumbull left office in 1873 and entered the practice of law in Chicago. He also became a Democrat and served as counsel to Samuel Tilden in the disputed presidential election of 1876.

After Stephen Gregory and Clarence Darrow filed a petition for a writ of habeas corpus from the Supreme Court in the *Debs* case, they asked Trumbull to assist them in writing the briefs and making the oral arguments. Gregory and Darrow thought Trumbull's prominence and stature would improve Debs' chances. Trumbull accepted, and he provided his legal services without a fee. Trumbull argued that the U.S. circuit court had no authority to issue an injunction against Debs and the American Railway Union.

Trumbull died only a year after the Supreme Court rejected his arguments in its opinion in *In re Debs*. Before his death, Trumbull commented that the opinion of the Supreme Court gave too much power to federal judges. Trumbull also became involved with the Populist Party during the final years of his life.

United States Strike Commission

In response to a request from the Knights of Labor and Populist Senator James Kyle, President Grover Cleveland on July 24, 1894, appointed a strike commission to investigate the origins of the Pullman strike and to recommend ways to avoid comparable labor disputes in the future. An act of 1888 authorized the President to appoint commissions to mediate disputes between interstate railroads and their workers, and the act provided that the U.S. commissioner of labor chair such a commission. Carroll D. Wright, the commissioner of labor, and the two other members of the strike commission held hearings in Chicago and Washington, D.C., and listened to over 100 witnesses representing workers from the Pullman Palace Car Company, officers of the American Railway Union, members of the General Managers' Association, and others. The commission delivered its lengthy report and recommendations to President Cleveland in November 1894.

The commission found the root causes of the strike in the public's and the government's failure to regulate trusts or to protect the interests of workers. It documented the burden placed on workers as the Pullman Company cut wages in an effort to maintain revenues during a national depression. The refusal of the Pullman Company and the General Managers' Association to meet with workers, according to the commission, closed off any chance of settlement. The commission found no evidence that the officers of the American Railway Union did anything to incite violence, and it noted that most of those arrested for violence were not railroad workers.

The commission recommended greater legal recognition of labor unions and proposed legislation for a permanent commission to promote arbitration of labor-management disputes. An arbitration bill passed in the U.S. House of Representatives,

but it failed to pass in the U.S. Senate, where opposition to arbitration from leading businessmen was influential.

William A. Woods (1837–1901)

William A. Woods served as the presiding judge of the U.S. Circuit Court for the Northern District of Illinois in July 1894, and with fellow judge Peter Grosscup issued the injunction ordering Eugene Debs and other officers of the American Railway Union to cease any efforts to disrupt interstate commerce and the transportation of the mails through their coordination of the boycott of Pullman railroad cars. Woods also presided at hearings regarding the criminal contempt citation issued by another federal judge against Debs and the other officers for allegedly ignoring the injunction. On December 14, 1894, Judge Woods ruled that the injunction and contempt citation were legal. The *Chicago Daily News* reported that Woods' opinion was "a voluminous typewritten affair" and that he read it to a packed courtroom.

Woods was born in Tennessee, but as a young boy his abolitionist family moved to Iowa. Woods went to Wabash College in Indiana and read law. He served in the Indiana legislature and was elected as a state judge and as a member of the Indiana Supreme Court. In 1883, President Chester A. Arthur appointed Woods judge of the U.S. District Court for Indiana, and President Benjamin Harrison appointed Woods a circuit judge for the Seventh Circuit in 1891. He was confirmed in March 1892 and served as a circuit judge until his death in 1901.

When the Supreme Court upheld the contempt citation and related jail sentences, Woods described the opinion of Justice David J. Brewer in *In re Debs* as "highly gratifying," and he said he knew he "was right in issuing the injunction last summer against the officers of the American Railway Union, and being right in the law the right to punish the men for contempt followed as a natural sequence." In April 1897, Woods published an article on labor injunctions in the *Yale Law Journal* and defended his decision. "Nobody in his right mind," Woods said, "believes that there has been usurpation of power by the courts, or that the power exercised is the source or beginning of peril to individual or collective rights."

Media Coverage and Public Debates

The Pullman strike and boycott were important national news, and periodicals as well as major daily newspapers devoted significant attention to the strike and boycott that spread from the Chicago area to the western half of the country. In an editorial of July 7, 1894, the influential *Harper's Weekly* said the nation was “fighting for its own existence just as truly as in suppressing the great rebellion.”

The *Harper's Weekly* comparison of the Pullman disorders to the Civil War, equating the strikers and boycotters with southern rebels, was typical of the press's negative characterization of the strikers and boycotters. Congress supported President Cleveland's use of federal soldiers, ministers rose in their pulpits to deplore the disorder, and the press for the most part took the side of the railroads. Stopping rail traffic, the argument went, interfered with commerce, stopped the delivery of the mails, and generally harmed the nation.

Harper's Weekly's criticism of the strikers and boycotters included not only editorials and reporting but also sketches and illustrations. Especially noteworthy were the drawings *Harper's Weekly* commissioned from the famous artist Frederic Remington. Remington had made his name with dramatic renderings of heroic soldiers and mysterious Indians from the American West. In *Harper's Weekly* of July 21, July 28, and August 11, 1894, he portrayed the federal troops in Chicago every bit as heroically as he had portrayed them on the frontier. And lest there be any doubt of what he meant his drawings to convey, Remington's accompanying commentaries described the troops as halting “a malodorous crowd of anarchist foreign trash.” The



“Scenes in and About Chicago” excerpt: “Deputies Trying to Move an Engine and Car on the Chicago, Rock Island, and Pacific Railroad, July 2, 1894”

Harper's Weekly, 1894.

Library of Congress, Prints and Photographs Division [LC-USZ62-75202]



KING DEBS.

"King Debs"
Caricature of Eugene V. Debs, by W.A. Rogers

Harper's Weekly, July 14, 1894.
Library of Congress, Prints and Photographs Division [LC-USZ62-106100]

citizens of Chicago, he added, were pleased to see the federal troops arrive because they could keep “social scum from rising to the top.”

The covers of *Harper’s Weekly* also made clear the periodical’s pronounced hostility toward the boycotters, Eugene V. Debs, and those who would sympathize with the boycott. The cover of July 14, 1894, featured a drawing of a bigger-than-life Debs wearing a crown, casually attired, and apparently blocking interstate commerce. In the background grain elevators, factories, and terminals are closed, and trains carrying mail, flour, vegetables, and dressed beef are stopped dead on the tracks. One week later, another cover, featuring the “Vanguard of Anarchy,” again portrayed Debs wearing a crown and now seated on a throne, carried by Illinois Governor Altgeld and assorted clowns and followed by a monstrous group of men wielding guns and waving torches.

Daily newspapers did not match *Harper’s Weekly’s* graphic excesses, but they too presented the strikers, boycotters, and Debs in a sensational and negative manner. A headline in the *Washington Post* of July 7, 1894, warned, “Fired by the Mob, Chicago at the Mercy of the Incendiary’s Torch.” The *New York Times* on July 9, 1894, con-



“The Great Railway Strikes – The First Meat Train Leaving the Chicago Stock-Yards under escort of United States Cavalry, July 10, 1894”

Reproduction in *Harper’s Weekly*, July 28, 1894, of drawing by G. W. Peters after G. A. Coffin.
Library of Congress, Prints and Photographs Division [LC-USZ62-3526]

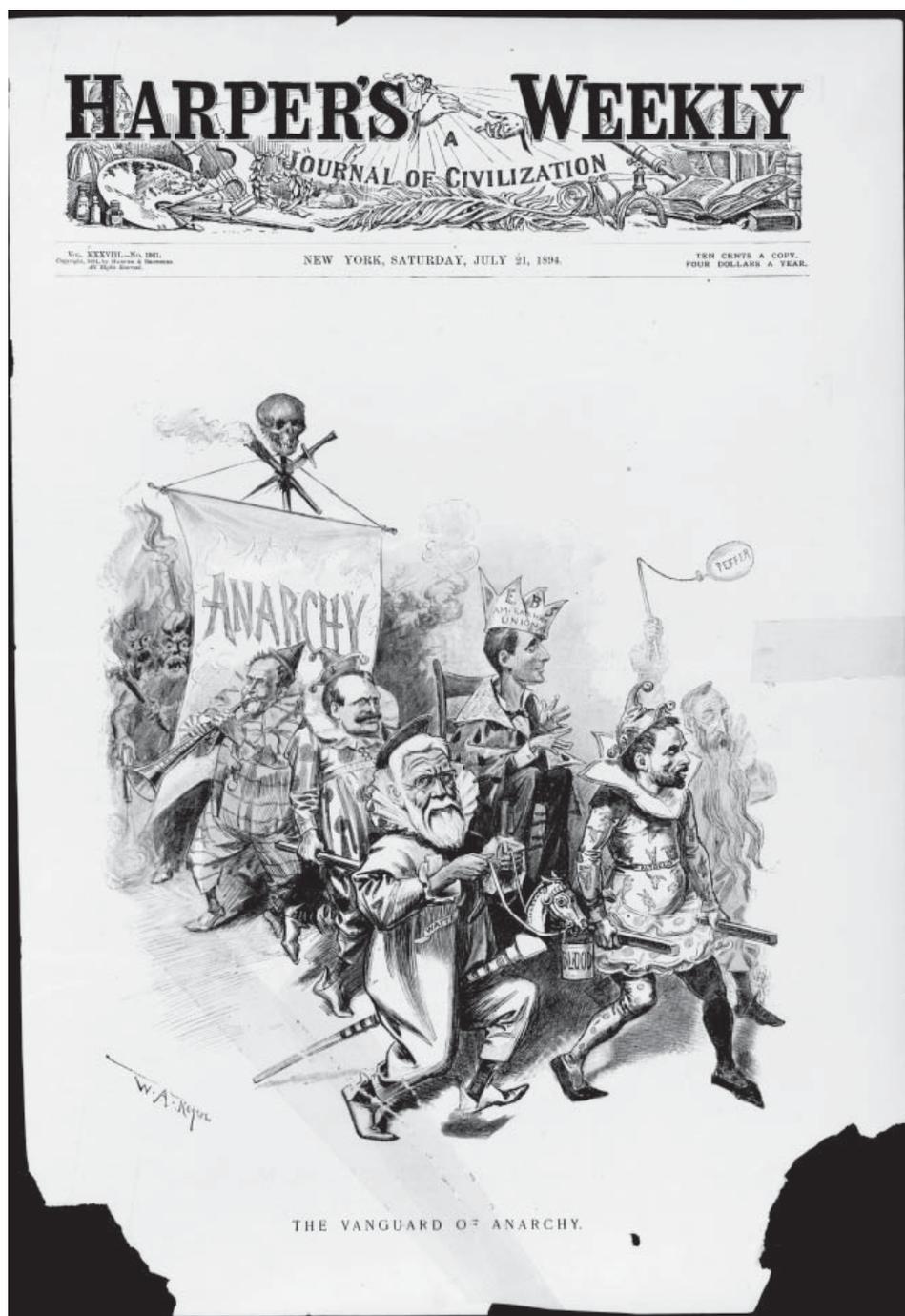
demned Debs for his purportedly excessive consumption of liquor. Using terms of the era, the newspaper said Debs suffered from “dipsomania” and urged him to seek treatment for his “liquor habit.”

The half dozen daily newspapers in Chicago gave the strike and boycott extensive coverage, and the coverage in the *Chicago Tribune* was the most extensive and critical. The newspaper’s editorial of May 16, 1894, entitled “Wild Demands of the Pullman Men,” suggested the workers’ demands were “the work of some Populist-Socialist who has strayed here from the West or the South . . .” A front-page article on June 30, 1894, reported, “With the coming of darkness last night Dictator Debs’ strikers threw off the mask of law and order and began the commission of acts of lawlessness and violence.” An editorial on the same date accused Debs and the other officers of the American Railway Union of wanting “to show that they could wield a colossal power over the American people and their interstate commerce and would hesitate at no measures which they do not suppose to bring the penitentiary or gallows in their train.”

Between July 3 and 5, 1894, the *Chicago Tribune* published a series of front-page cartoons ridiculing Debs. In the first, Debs wears a lion’s suit, stands on top of a book titled “Law,” and brays rudely at Uncle Sam. In the second, Debs smokes a cigar and wears a crown, and he props his feet on a table thereby soiling the Declaration of Independence. In the third and most curious, Uncle Sam squats to light a firecracker with Debs’ face and name on it. The wand used for ignition reads “U.S. Troops,” and the caption says, “Uncle Sam Takes a Hand In It.”

Press coverage of the legal proceedings in the Chicago courts was limited in the national publications, but the Chicago newspapers not surprisingly covered the proceedings and commented upon them in detail. Most of the coverage was supportive of the arguments of the railroads and the federal government. The *Chicago Tribune*, for example, ran a front-page article titled “Uncle Sam Will Use the Law Backed by Riot Guns” on July 2, 1894, the very day the federal government sought the injunction. The article praised the breadth of the injunction. The injunction, the newspaper said, will be “of so broad and sweeping a character that interference with the railroads, even of the remotest kind, will be practically impossible without incurring penalties for contempt of court.” Eagerly anticipating developments once the injunction was issued, the newspaper added, “It is said without reserve the arrest of these men [Debs and the American Railway Union officers] is inevitable . . .”

The *New York Times*, which had predicted confidently and accurately how the Supreme Court appeal would be decided, praised the decision in an editorial of May 28, 1895. The decision was important in several ways, the newspaper said. “It is the first instance in which the Supreme Court has been called upon to consider, first, the full scope of the powers of Congress with reference to the vast transportation system of the country by virtue of its relations to the Postal Service and inter-state commerce, and, second, the procedure by injunction and sentence for contempt in disobeying



"The Vanguard of Anarchy"
Caricature of Eugene V. Debs, by W.A. Rogers

Harper's Weekly, July 21, 1894.
Library of Congress, Prints and Photographs Division [LC-USZ62-106101]

an injunction . . .” The newspaper was especially struck that, despite sectional and party differences, the Supreme Court had achieved unanimity. “We had not ventured to think that the decision of the Supreme Court would be at once so complete and unqualified and be unanimous.”

An editorial of May 28, 1895, in the *Chicago Tribune* said the decision did more than send Debs to jail. “It is a notice to all Anarchists and other disturbers of the public peace that the hands of the General Government are not fettered when it is dealing with questions which are under its exclusive control.” The result of the decision, the *Chicago Tribune* said, is that “there will be no more attempts except on the part of train robbers to stop the transportation of the mails or to tie-up inter-state commerce. There will be no more insurrections like that of last July.” The *Inter Ocean*, while praising the Supreme Court, took advantage of another opportunity to criticize Debs and his union. “The Debs movement was the most absurd as well as the most iniquitous that ever was devised by the unwit of man,” the newspaper said in its editorial of May 28, 1895. “Had it [the Debs movement] been legalized into a precedent no class would have been doomed to such suffering as that which would have fallen upon the wage-earners. In its last analysis, the Debs plan was that of organized anarchy . . .”

Historical Documents

Writ of injunction, U.S. Circuit Court for the Northern District of Illinois, July 2, 1894

U.S. Attorney Thomas Milchrist, with the approval of the U.S. Attorney General and the advice of Special U.S. Attorney Edwin Walker, submitted a complaint asking the U.S. circuit court in Chicago to issue an injunction restraining the American Railway Union officers in their support of the Pullman strike and the boycott of Pullman cars. Injunctions had been issued by English and American courts for centuries to protect private property from immediate and irreparable harm, but federal injunctions against labor strikes dated only to 1877, when the courts had issued injunctions against railroad workers striking against companies that were under federal bankruptcy protection. More recently federal courts had issued injunctions under the authority of the Interstate Commerce Act, and in 1893, a federal court approved the use of a labor injunction against striking workers under the authority of the Sherman Anti-Trust Act of 1890, which authorized injunctions against any company or group that obstructed interstate commerce. The U.S. circuit court agreed to issue a broad injunction that prohibited almost any participation in the Pullman strike by the union officers.

[Document Source: Writ of Injunction, filed 2 July 1894; Civil Case File 23421, United States of America vs. Eugene V. Debs, George W. Howard, L.W. Rodgers [sic], Sylvester Keliher, The American Railway Union, and others; Civil Case Files, 1871–1911; Records of the U.S. Circuit Court, Northern District of Illinois, Eastern Division at Chicago; Record Group 21, National Archives and Records Administration—Great Lakes Region, Chicago. Missing text supplemented from United States v. Debs et al., 64 Federal Reporter 724 (1894).]

And now on this day, this cause coming on to be heard on the motion of complainant, for a preliminary restraining order or injunction, as prayed in said bill, and complainant having exhibited its sworn bill to the Honorable William A. Woods, Circuit Justice, and Peter S. Grosscup, District Judge, and the Court being now fully advised in the premises and having read said bill, it is ordered, that a writ of injunction issue out of and under the seal of this court, commanding the said defendants, Eugene V. Debs, George W. Howard and L.W. Rogers, and the American Railway Union, Sylvester Keliher, Lloyd Hodtchkins, A. Pazybok, H. Elfine, James Hannon, John Masterbrook, William Smith, Edward O'Neil, Charles Nailer, John Duffy, William McMullen, E. Shelly, Fred Kitchum, John W. Doyle, and all other persons combining and conspiring with them, and all other persons whomsoever, absolutely to desist and refrain from in any way or manner interfering with, hindering, obstructing

or stopping any of the business of any of the following named railroads, to wit: [list of twenty-two railroad companies]; as common carriers of passengers and freight between or among any states of the United States; and from in any way or manner interfering with, hindering, obstructing or stopping any mail trains, express trains, or other trains, whether freight or passenger, engaged in interstate commerce, or carrying passengers, or freight between or among the states; and from in any manner interfering with, hindering or stopping any trains carrying the mail, and from in any manner interfering with, hindering, obstructing, or stopping any engines, cars or rolling stock of any of said companies engaged in interstate commerce, or in connection with the carriage of passengers or freight between or among the states; and from in any manner interfering with, injuring, or destroying any of the property of any of said railroads engaged in or for the purpose of, or in connection with interstate commerce, or the carriage of the mails of the United States, or the transportation of passengers or freight between or among the states; and from entering the grounds or premises of any of said railroads for the purpose of interfering with, hindering, obstructing, or stopping any of said mail trains, passenger or freight trains engaged in interstate commerce, or in the transportation of passengers or freight between or among the states, or for the purpose of interfering with, injuring, or destroying any of said property so engaged in or used in connection with interstate commerce, or the transportation of passengers or property between or among the states; and from injuring or destroying any part of the tracks, roadbed, or road, or permanent structures of said railroads, and from injuring, destroying, or in any way interfering with any of the signals or switches of any of said railroads, and from displacing or extinguishing any of the signals of any of said railroads and from spiking, locking or in any manner fastening any of the switches of any of said railroads and from uncoupling or in any way hampering or obstructing the control by any of said railroads or any of the cars, engines or parts of trains of any of said railroads engaged in interstate commerce or in the transportation of passengers or freight between or among the States, or engaged in carrying any of the mails of the United States; and from compelling or inducing or attempting to compel or induce by threats, intimidation, persuasion force or violence, any of the employees of any of said railroads to refuse or fail to perform any of their duties as employees of any of said railroads in connection with the interstate business or commerce of said railroads or the carriage of the United States mail by such railroads or the transportation of passengers or property between or among the states; and from compelling or inducing or attempting to compel or induce by threats, intimidation, force or violence, any of the employees of any of said railroads who are employed by such railroads and engaged in its service in the conduct of interstate business or in the operation of any of its trains, carrying the mail of the United States, or doing interstate business, or the transportation of passengers and freight between and among the states, to leave the service of such railroads; and from preventing any persons whatever by threats, intimidation, force or violence,

from entering the service of any of said railroads and doing the work thereof, in the carrying of the mails of the United States, or the transportation of passengers and freight between or among the states; and from doing any act whatever in furtherance of any conspiracy or combination to restrain either of said railroad companies or receivers in the free and unhindered control and handling of interstate commerce over the lines of said railroads, and of transportation of persons and freight between and among the states; and from ordering, directing, aiding, assisting or abetting in any manner whatever, any person or persons to commit any or either of the acts aforesaid.

And it is further ordered that the aforesaid injunction and writ of injunction shall be in force and binding upon such of said defendants as are named in said bill from and after service upon them severally of said writ by delivering to them severally a copy of said writ or by reading the same to them and the service upon them respectively of the writ of subpoena herein, and shall be binding upon said defendants whose names are alleged to be unknown from and after the service of such writ upon them respectively by the reading of the same to them or by publication thereof by posting and printing, and after service of subpoena upon any said defendants, named herein shall be binding upon said defendants and upon all other persons whatsoever who are not named herein from and after the time when they shall severally have knowledge of the entry of such order and the existence of said injunction.

Correspondence of Attorney General Richard Olney

Attorney General Richard Olney maintained regular contact with Edwin Walker, special U.S. attorney in Chicago. This selection of correspondence between the two describes the legal strategy that the Cleveland administration developed to suppress the Pullman strike and disable the leadership of the American Railway Union. Walker makes it clear that his priority was to bring the strike to an end as soon as possible.

[Document Source: *Annual Report of the Attorney General of the United States for the Year 1896* (Washington, D.C.: Government Printing Office, 1896): 60, 63–64, 93–94.]

Attorney General Richard Olney to Edwin Walker, special U.S. attorney,
Washington, D.C., June 30, 1894

Sir: I am in receipt of your telegram informing me that you will act for the United States in such proceedings as the United States may legally take in connection with the conspiracy and combination now on foot, by which all the great railroad systems centering in Chicago are tied up and the carrying of the United States mails practically

prevented. I am greatly gratified that you consent to represent the Government in this matter. I am aware that you do it not wholly for the compensation, since Uncle Sam is always a poor paymaster, but largely from public spirit. It has seemed to me that if the rights of the United States were vigorously asserted in Chicago, the origin and center of the demonstration, the result would be to make it a failure everywhere else and to prevent its spread over the entire country. With yourself directing matters for the Government, I am sure all legal remedies will be resorted to that the facts will warrant.

In this connection it has seemed to me advisable not merely to rely on warrants against persons actually guilty of the offense of obstructing United States mails, but to go into a court of equity and secure restraining orders which shall have the effect of preventing any attempt to commit the offense. With that view I sent a telegram to Mr. Milchrist this morning citing some decisions, which I think may probably be availed of in the present exigency.

The marshal and the district attorney have wired me about the employment of 50 deputies. I authorized it, of course. But I feel that the true way of dealing with the matter is by a force which is overwhelming and prevents any attempt at resistance. In that particular, however, I must defer to the better judgment of one who is on the spot and familiar with all the facts of the situation and therefore, must ask you to give such advice to Messrs. Milchrist and Arnold as, in your judgment, the emergency calls for.

Very respectfully yours, Richard Olney

Edwin Walker to Attorney General Richard Olney, Chicago, Ill., July 2, 1894

Dear Sir: Upon return to my office after an absence of a few days, I found awaiting me your telegrams relative to the railroad strikes and interruption in the transportation of the mails. I found that Judge Milchrist, after conference with several attorneys representing different railway corporations, had prepared a bill to be filed in the circuit court, under the act of 1890, for an injunction restraining interference with all trains engaged in interstate commerce as well as the transportation of mails.

...

As I telegraphed you, I do not believe that the marshal and his deputies can protect the railroad companies in moving their trains, either freight or passenger, including, of course, the trains carrying United States mail. Possibly, however, the service of the writ of injunction will have a restraining influence upon Debs and other officers of the association. If it does not, from present appearances, I think it is the opinion of all that the orders of court can not be enforced except by the aid of the Regular Army.

I will keep you thoroughly advised by wire. I am decidedly of the opinion that there should be a special grand jury called for presentation of indictments against Debs and other officers of the association, and all other persons who have been, or are still engaged in wrongfully detaining and delaying this transportation of mail. I think the Government should proceed with a firm hand, not only by bill of equity, but also by criminal procedure against all violating the law.

Judge Milchrist is not inclined to agree with me in this respect, for the reason that the fine that can be imposed is but \$100, and for the further reason that he fears there will be difficulty in procuring evidence to convict under the indictments. The result of a trial under the indictments will be of little importance, and there may be no necessity of such trial. The very fact, however, that the Government has called a grand jury for the purpose of investigating these offenses, and the return of indictments which in my opinion are sure to follow, will have a greater restraining effect upon Debs and his followers than our proceeding by injunction.

Edwin Walker to Attorney General Richard Olney, Chicago Ill., July 26, 1894

Dear Sir: Further proceedings in the matter of contempt in the case against Debs and others have gone over until September 5.

There were several reasons why this postponement became necessary. In the first place, Judge Woods could not remain longer than the present week, on account of other engagements, and we could not have concluded the matter during this week.

...

My health has been such during the week that I could not have participated in the court proceedings for a few days at least. The heat was really stifling, and the crowd of strikers present at the hearing made the air of the room intolerable. Besides all this, I think it better for the Government that the hearing should not take place before September. As the strike is now thoroughly broken, the American Railway Union badly demoralized, and local unions continually withdrawing, it is my opinion that by the 1st of September there will be little left of this organization.

The contempt proceedings are still resting over the officials, and the court admonished them several times during the hearing that the orders of the court must be obeyed, and Judge Woods openly said that if the acts complained of should be repeated it would aggravate the contempt. The main cause pending here will be prosecuted to a final hearing, and if the courts sustain the position of the Government, that equity has jurisdiction to restrain such confederacies and enforce the rule of non-interference with the transportation of the mails and interstate commerce, there will be no more boycotting and no further violence in aid of strikes. If employees should leave in a body other employees may take their places without interference or intimidation.

The real question now at issue is whether the law is stronger than mob violence. If it is not, or if the orders of the court can not be enforced against individuals, then it would seem to follow that the strong arm of the Government would have to be asserted, and martial instead of civil law would be the remedy. Believing that the law can be asserted and the decrees of court enforced, I have no fear of the final issue.

Very respectfully, Edwin Walker

Grand jury charge of Judge Grosscup, U.S. District Court for the Northern District of Illinois, July 10, 1894

Special U.S. Attorney Edwin Walker determined to pursue a criminal indictment of Debs and the American Railway Union officers at the same time that they were under the restrictions of the injunction. Representatives of the General Managers' Association wanted to see the union officer jailed, and Walker was convinced that the parallel legal actions would cripple the strike. Judge Peter S. Grosscup of the U.S. District Court for the Northern District of Illinois charged the grand jury on July 10, 1894, in language that almost demanded indictment. The grand jury brought indictment against the union officers on July 10.

[Document Source: "Judge Grosscup's Strong Charge," *New York Times*, July 11, 1894, p. 1.]

Gentlemen of the Grand Jury: You have been summoned here to inquire whether any of the laws of the United States within this judicial district have been violated. You have come into an atmosphere, and amid occurrences, that may well cause reasonable men to question whether the Government and laws of the United States are yet supreme. Thanks to resolute manhood and to that enlightened intelligence which perceives the necessity of a vindication of law before any other adjustments are possible, the Government of the United States is still supreme.

You doubtless feel as I do, that the opportunities of life under present conditions are not entirely equal, and that changes are needed to forestall some of the dangerous tendencies of current industrial life. But neither the torch of the incendiary nor the weapon of the insurrectionist nor the inflamed tongue of him who incites to fire and sword is the instrument to bring about reforms. To the mind of the American people, to the calm, dispassionate, sympathetic judgment of a race that is not afraid to face deep changes and responsibilities there has as yet been no appeal. Men who appear as the champions of great changes must first submit them to discussion—discussion that reaches not simply the parties interested, but the wider circles of society, and must be patient as well as persevering until the public intelligence has been reached and public judgment made up. An appeal to force before that hour is a crime not

only against the government of existing laws, but against the cause itself, for what man of any intelligence supposes that any settlement will abide which is induced under the light of the torch or the shadow of an overpowering threat?

With the question behind present occurrences, therefore, we have, as ministers of the law and citizens of the Republic, nothing to do. The law as it is must first be vindicated before we turn aside to inquire how law or practice as it ought to be can be effectually brought about. Government by law is imperiled, and that issue is paramount

Insurrection is a rising against civil or political authority; the open and active opposition of a number of persons to the execution of a law in a city or State. Now, the laws of the United States forbid, under penalty, any person from obstructing or retarding the passage of the mail and make it the duty of the officer to arrest such offenders and bring them before the courts.

If, therefore, it shall appear to you that any person or persons have willfully obstructed or retarded the mails, and that their attempted arrest for such offense has been opposed as such by a number of persons as would constitute a general uprising in that particular locality, and as threatens for the time being, the civil and political authority, then the fact of an insurrection within the meaning of the law has been established

It is also provided that if two or more persons conspire together to commit any offense against the United States and one or more of such parties do any act to effect the object of the conspiracy, all the parties therefore shall be subject to a penalty

If it shall appear to you that two or more persons corruptly or wrongfully agreed with each other that the employes of the several railroads carrying the mails and inter-State commerce should quit, and successors should, by threats, intimidation, or violence be prevented from taking their places, such would constitute a conspiracy. . . .

There is honest leadership among these our laboring fellow-citizens, and there is doubtless, dishonest leadership. You should not brand any act of leadership as done dishonestly or in bad faith unless it clearly so appears. But if it does appear, if any persons are shown to have betrayed the trust of these toiling men, and their acts fall within the definition of crime as I have given it to you, it is alike the interest, the pleasure, and the duty of every citizen to bring them to swift and heavy punishment.

I wish again, in conclusion, to impress upon you the fact that the present emergency is to vindicate the law. If no one has violated the law under the rules I have laid down, it needs no vindication; but if there has been such violation, there should be quick, prompt, and adequate indictment Let us first restore peace and punish the offenders of the law, and then the atmosphere will be clear to think over the claims of those who have real grievances. First vindicate the law. Until that is done, no other questions are in order.

United States v. Debs et al., decision of the U.S. Circuit Court for the Northern District of Illinois, December 14, 1894

Two weeks after the issuance of the injunction against the officers of the American Railway Union, the U.S. attorneys presented the U.S. Circuit Court for the Northern District of Illinois with an information asserting that Debs and the other officers had violated the injunction and were guilty of contempt. The court agreed and sentenced the union officers to jail time. Debs' lawyers denied that the court had the authority to issue an injunction or to punish for contempt without a trial by jury. On December 14, 1894, Judge William A. Woods ruled that the U.S. circuit court had authority to issue the injunction, that the union officers had violated the court order, and that the court had authority to enforce its order through a jail sentence for contempt. The "act of July 2, 1890," to which Judge Woods refers in the following excerpt is the Sherman Anti-Trust Act, which the U.S. attorneys argued granted the courts authority to issue injunctions against labor unions as well as corporate trusts that obstructed interstate commerce.

[Document Source: *United States v. Debs et al.*, 64 Federal Reporter 724 (1894).]

The question here, therefore, is whether the case presented by the petition was of a class which in a federal court admits of remedy by injunction.

Without going into the details of averment, the charge made against the defendants was that they were engaged in a conspiracy to hinder and interrupt interstate commerce and the carriage of the mails upon railroads centering in Chicago, by means and in a manner to constitute, within the recognized definitions, a public nuisance.

...

Accordingly, it is contended, and numerous decisions and texts are cited to show, that "equity had jurisdiction to restrain public nuisances upon bill or information filed by the attorney general on behalf of the people." . . .

But while the reasons to justify, on the grounds considered, the issuing of the injunction for the purpose of protecting, against obstruction or interruption, either the mails alone or interstate commerce, of which the carrying of the mails is a part, are strong, and perhaps ought to be accepted as convincing, there seems to be no precedent for so holding, and the responsibility of making a precedent need not now be assumed.

While, however, the point is not decided, the authorities on the subject have been brought forward so fully because, in part, of their bearing upon the question now to be considered, – whether or not the injunction was authorized by the act of July 2, 1890. It was under that act that the order was asked and was granted; but it has been seriously questioned in this proceeding, as well as by an eminent judge and

by lawyers elsewhere, whether the statute is by its terms applicable, or consistently with constitutional guaranties can be applied, to cases like this

It is therefore the privilege and duty of the court, uncontrolled by considerations drawn from other sources, to find the meaning of the statute in the terms of its provisions, interpreted by the settled rules of construction. That the original design to suppress trusts and monopolies created by contract or combination in the form of trust, which of course would be of a "contractual character," was adhered to, is clear; but it is equally clear that a further and more comprehensive purpose came to be entertained, and was embodied in the final form of the enactment. Combinations are condemned, not only when they take the form of trusts, but in whatever form found, if they be in restraint of trade. That is the effect of the words "or otherwise." . . .

I have not failed, I think, to appreciate the just force of the argument to the contrary of my opinion, – it has sometimes entangled me in doubt, – but my conclusion is clear that, under the act of 1890, the court had jurisdiction of the case presented in the application, and that the injunction granted was not without authority of law, nor for any reason invalid.

This brings me to the question of fact: Did the defendants violate the injunction? The evidence upon the question is voluminous, but need not be reviewed in detail

[The defendants'] original intention, it is true, was only to prevent the use of Pullman cars, but finding, as they did, immediately, that that aim would be thwarted by the discharge from service of men who refused to handle those cars, they began as early as June 27th, the day after the boycott was proclaimed, to issue orders to strike; and from that time to the end, to the extent of their ability, they conducted and controlled the strike with persistent consistency of purpose; and with unchanged methods of action

The evidence leaves no feature of the case in doubt. The substance of it, briefly stated, is that the defendants, in combination with members of the American Railway Union and others, who were prevailed upon to co-operate, were engaged in a conspiracy in restraint or hindrance of interstate commerce over the railroads entering Chicago, and, in furtherance of their design, those actively engaged in the strike were using threats, violence, and other unlawful means of interference with the operations of the roads; that by the injunction they were commanded to desist, but, instead of respecting the order, they persisted in their purpose, without essential change of conduct, until compelled to yield to superior force.

Much has been said, but without proof, of the wrongs of the workmen at Pullman, of an alliance between the Pullman Company and the railway managers to depress wages, and generally of corporate oppression and arrogance. But it is evident that these things, whatever the facts might have been proved or imagined to be, could furnish neither justification nor palliation for giving up a city to disorder, and for paralyzing the industries and commerce of the country.

Writ of habeas corpus

Following the U.S. circuit court's decision to punish Debs and the other union officers for contempt of the court's injunction, the union officers petitioned the Supreme Court for a writ of habeas corpus. In the petition, they argued that the punishment for contempt was an unconstitutional infringement of their rights to due process and to a trial by jury. They also argued that the circuit court did not have authority to issue the injunction, which they claimed was an attempt to enforce a criminal statute through an order from an equity court and thereby avoid a trial by jury. They denied that the Sherman Anti-Trust Act of 1890 authorized injunctions against unions, and if it had, the authorization would be unconstitutional because Congress cannot give to an equity court jurisdiction over crimes.

[Document Source: Transcript of Record, October Term 1894, vol. 3, 2–5.]

To the Honorable John Marshall Harlan, one of the Associate Justices of the Supreme Court of the United States.

... And your petitioners further show that they were tried on the charge of having violated said injunction by the said court without a jury and upon informations and not under indictment of a grand jury contrary, as your petitioners are advised, to the Constitution of the United States, and particularly to the fifth and sixth amendments thereto, and that said informations did not state or show, as they are advised by counsel, any violation of said injunction by your petitioners.

And your petitioners further respectfully show, as they are advised, that the order for said injunction was void, in this, that the bill praying therefor and under which the same was allowed made and stated no case whatever of which the said circuit court of the United States could take jurisdiction or cognizance or in which that court could make any lawful order against your petitioners; that said bill was in effect a bill by the Government of the United States to maintain the public peace and to enjoin violations of the penal code of the United States. . . .

And your petitioners further respectfully show that, as they are advised and verily believe, the act of the Congress of the United States entitled as aforesaid ["An act to protect trade and commerce against unlawful restraints and monopolies,"] and approved the 2d day of July, 1890, has no application or reference to such facts and conditions as are in said bill stated and confers no jurisdiction whatever upon the circuit courts of the United States in respect of the matters and things in said bill set forth, and that the same is, particularly as to section 4 thereof, unconstitutional and void, in that it is an attempt to commit the enforcement of a penal statute to the circuit courts of the United States, sitting in chancery, and thus to deprive persons charged with its violation of the right not to be put upon trial except on presentment or indictment by a grand jury, and of the right of trial by jury secured by the

provisions of the Constitution of the United States, and particularly by the sixth amendment to the Constitution.

Lyman Trumbull brief, of counsel for petitioner, in the Supreme Court of the United States, March 25, 1895

Former Senator Lyman Trumbull joined the legal defense for Debs and the union officers when their petition for a writ of habeas corpus came before the Supreme Court. The respected Illinois lawyer, by then in his eighties, submitted a brief arguing that Congress could not have authorized the federal courts to enforce a criminal statute through an injunction, which was a type of order limited to courts of equity.

[Document Source: *Records and Briefs of the U.S. Supreme Court*, October Term 1894, no. 11.]

It is not in the power of Congress to confer upon a court of equity jurisdiction unless of an equitable nature, which jurisdiction over crimes is not. The Constitution recognizes and confers upon the judicial department jurisdiction in certain cases in law and equity, and provides that trial of all crimes, except in cases of impeachment shall be by jury, and in common law cases preserves the right of trial by jury. It is not competent for Congress to break down this distinction between law and equity by conferring upon courts of equity, jurisdiction of criminal and common law cases and thereby deny parties the right to a jury trial.

The act to protect trade and commerce against unlawful restraints and monopolies does not apply to the case stated in the bill. If it does, then it is unconstitutional. If a court of equity is authorized to restrain and prevent persons from the commission of crimes and misdemeanors prohibited by law, it must have the power to enforce its restraining order. In this case some of the parties are sentenced to imprisonment for six months, and for what? For doing some of the things forbidden by a criminal statute. If they have done none of the things forbidden, they have not violated the injunction, for it could only restrain them from doing what the law forbade. It follows that by indirection a court of equity under its assumed jurisdiction to issue injunctions and punish for contempts, is made to execute a criminal statute and deprive persons of their liberty without a jury trial. This a court of equity has no power to do, nor is it competent for Congress to confer such a power on a court of equity.

Clarence Darrow brief and arguments for petitioner, in the Supreme Court of the United States, March 25, 1894

Darrow's brief for the Supreme Court arguments included an impassioned defense of the right to strike and the legitimacy of sympathetic strikes or boycotts. Critics of unions insisted that strikes precipitated violence, but Darrow replied that violence was endemic to industrial conflict and was as likely to arise in response to layoffs or cuts in pay as from the collective action of strikers. Darrow likened the conflicts between labor and capital to fields of battle and held that only the right to join together in common defense of their interests secured workers a degree of protection against the overwhelming power of corporations.

[Document Source: *Records and Briefs of the U.S. Supreme Court*, October Term 1894, no. 11.]

Whether the cause for striking grew out of a direct injury to the railway employees, or what is known as a sympathetic strike, is a matter that can not affect the legality or the illegality of the act. If no man could strike except he were personally aggrieved, there could be no strike of a combination of working men. Under modern industrial conditions, where hundreds of men are working together to a common purpose, and where the business of the country is intertwined more or less directly, a strike would be impossible unless those who are not directly and personally aggrieved, have the right to cease labor for the benefit of their fellows. The theory on which all labor organizations are based is that workingmen have a common interest, and that "an injury to one is the concern of all." They are organizations whose principle and whose purpose is to help redress the grievances of each other, and to aid one another in establishing better conditions and fairer relations. If it should be said that if one man should suffer a special grievance, the others could not unite to redress it, then to what purpose can an organization of laboring men exist? . . .

It has been sometimes held by courts that every strike is attended with violence and bloodshed, and that, therefore, no men have the right collectively to cease work. While, in the light of history, if it were conceded that violence generally followed strikes, it would by no means follow that a great body of men would not have the right to lay down the tools and implements of their trade to better the conditions of themselves and their fellow-men, although growing out of this violence, bloodshed and crime would surely come.

As violence and bloodshed frequently follow strikes, so do they frequently follow lockouts and reductions of wages, but these facts are not sufficient to deprive men of their free moral agency and make their acts subject to the control of courts.

It is not claimed in this argument, neither would it be claimed by any parties to this suit, that the present social system is an ideal state. Strikes are deplorable, and so are their causes. All men who engage in them hope for a time when better social

relations will make them as unnecessary as any other forms of warfare will some day be. But under the present conditions of industrial life, with the present conflicting interests of capital and labor, each perhaps blindly seeking for more perfect social adjustments, strikes and lockouts are incidents of industrial life. They are not justified because men love social strife and industrial war, but because in the present system of industrial evolution to deprive workingmen of this power would be to strip and bind them and leave them helpless as the prey of the great and strong. It would be to despoil one army of every means of defense and aggression while on the field of battle, and in the presence of an enemy with boundless resources and all the equipments of warfare at their command.

Oral argument of Hon. Richard Olney, Attorney General, in the Supreme Court of the United States

Attorney General Richard Olney, who had worked closely with the U.S. attorneys in Chicago in devising the government's legal challenges to Debs and the American Railway Union, presented the central arguments for the government in the Supreme Court. Olney confidently asserted that only the injunction from a court of equity would have been adequate to halt the strikers' obstruction of interstate commerce, against which criminal prosecution or a suit for damages would have been useless. The government's responsibility for maintaining unencumbered commerce between the states, furthermore, gave the government an interest equivalent to the ownership of property, and thus the grounds for requesting a restraining order from a court of equity.

[Document Source: *Records and Briefs of the U.S. Supreme Court*, October Term 1894, no. 11.]

What fitting remedies in its courts, then, did the United States have in the summer of 1894? It could—I take no account, as your honors will remember, of the act of 1890—it could arrest and prosecute for obstruction of the mails and for conspiracy to obstruct them. But the wholly imperfect character of that remedy as against mobs of thousands of people, and when the great object was not so much to punish interference with interstate-railroad transportation as to free it from such interference, is so obvious that it need not be dwelt upon. Had the United States any other available remedy through the medium of its courts? It had, I submit with great confidence, the exact remedy which it did apply for and which the courts did in fact furnish. It had the right to go into its courts of equity, to set out the facts by proper bill, and to ask that upon those facts the defendants and their confederates should be restrained from a wrongful interruption of interstate-railroad transportation which was working private and public injury of the most widespread and most

irreparable character. It had the right to bring such a bill and to ask and to get such relief on the most incontestable grounds. The sovereign can always resort to its own courts under circumstances which authorize private individuals to resort to them, and for the same purposes. The United States by the bill in question presented a case of equitable cognizance beyond all cavil—a case to which criminal prosecutions and actions for damages were wholly inadequate, a case involving innumerable suits and great and entirely irreparable injury unless the imminent and impending mischiefs were averted through the restraining orders of a court of equity. . . .

The inherently equitable nature of the case made by the Government bill being conceded because indisputable, the real contention is that the United States was not a proper plaintiff to any such bill and had no right to bring it. Having no direct property interest involved, the United States, it is claimed, could not be plaintiff in such a bill without express enabling legislation on the part of Congress. But the proposition is, I submit, neither sound in principle nor supported by precedent. A trustee's right and duty to protect by suit the subject-matter of the trust are in no wise affected because he is without private interest in that subject-matter. Yet, as regards interstate railroad transportation, what is the United States but a trustee for all parties and interests concerned? as trustee bound by its relations to the States as well as to individuals to sue at law or in equity whenever such suit will aid in the discharge of the trust?

Opinion of the Supreme Court, In re Debs, Petitioner

Justice David J. Brewer wrote the opinion for the unanimous Supreme Court decision delivered on May 27, 1895. Brewer quickly established the government's interest in preserving the free flow of interstate commerce, and he then devoted most of the opinion to discussion of authority for the use of an injunction to help the government carry out its duty to protect commerce. Brewer said the government had a right to prosecute individuals who interfered with commerce of the transportation of the mails, and the government could use its "strong arm," such as military force, to restore interstate commerce, but he wanted to establish a broader ground for the restraint of strikers. Brewer went beyond even Attorney General Olney in asserting that the government could seek an injunction from a court of equity not only based on the government's responsibility to protect interstate commerce, but also its constitutional responsibility to protect the general welfare. The sweep of Brewer's assertion of governmental power suggested that the executive branch could approach federal courts of equity for restraining orders against a broad range of perceived threats to national interest. Brewer added that anyone who tried to redress grievances outside of elections or the judicial process would be subject to government restraint.

[Document Source: *In re Debs*, 158 U.S. 564 (1895).]

The case presented by the bill is this: The United States, finding that the interstate transportation of persons and property, as well as the carriage of the mails, is forcibly obstructed, and that a combination and conspiracy exists to subject the control of such transportation to the will of the conspirators, applied to one of their courts, sitting as a court of equity, for an injunction to restrain such obstruction and prevent carrying into effect such conspiracy. Two questions of importance are presented: First. Are the relations of the general government to interstate commerce and the transportation of the mails such as authorize a direct interference to prevent a forcible obstruction thereof? Second. If authority exists, as authority in governmental affairs implies both power and duty, has a court of equity jurisdiction to issue an injunction in aid of the performance of such duty? . . .

As, under the constitution, power over interstate commerce and the transportation of the mails is vested in the national government, and Congress, by virtue of such grant, has assumed actual and direct control, it follows that the national government may prevent any unlawful and forcible interference therewith. But how shall this be accomplished? Doubtless, it is within the competency of Congress to prescribe by legislation that any interferences with these matters shall be offences against the United States, and prosecuted and punished by indictment in the proper courts. But is that the only remedy? Have the vast interests of the nation in interstate commerce, and in the transportation of the mails, no other protection than lies in the possible punishment of those who interfere with it? To ask the question is to answer it If all the inhabitants of a state, or even a great body of them, should combine to obstruct interstate commerce or the transportation of the mails, prosecutions for such offenses had in such a community would be doomed in advance to failure. And if the certainty of such failure was known, and the national government had no other way to enforce the freedom of interstate commerce and the transportation of the mails than by prosecution and punishment for interference therewith, the whole interests of the nation in these respects would be at the absolute mercy of a portion of the inhabitants of that single state.

But there is no such impotency in the national government. The entire strength of the nation may be used to enforce in any part of the land the full and free exercise of all national powers and the security of all rights intrusted by the Constitution to its care. The strong arm of the national government may be put forth to brush away all obstructions to the freedom of interstate commerce or the transportation of the mails. If the emergency arises, the army of the nation, and all its militia, are at the service of the nation to compel obedience to its laws.

But passing to the second question, is there no other alternative than the use of force on the part of the executive authorities whenever obstructions arise to the freedom of interstate commerce or the transportation of the mails? Is the army the only instrument by which rights of the public can be enforced, and the peace of the nation preserved? Grant that any public nuisance may be forcibly abated, either

at the instance of the authorities, or by any individual suffering private damage therefrom. The existence of this right of forcible abatement is not inconsistent with, nor does it destroy, the right of appeal, in an orderly way, to the courts for a judicial determination, and an exercise of their powers, by writ of injunction and otherwise, to accomplish the same result

So, in the case before us, the right to use force does not exclude the right of appeal to the courts for a judicial determination, and for the exercise of all their powers of prevention. Indeed, it is more to the praise than to the blame of the government, that, instead of determining for itself questions of right and wrong on the part of these petitioners and their associates, and enforcing that determination by the club of the policeman and the bayonet of the soldier, it submitted all those questions to the peaceful determination of judicial tribunals, and invoked their consideration and judgment as to the measure of its rights and powers, and the correlative obligations of those against whom it made complaint. And it is equally to the credit of the latter that the judgment of those tribunals was by the great body of them respected, and the troubles which threatened so much disaster terminated.

Neither can it be doubted that the government has such an interest in the subject matter as enables it to appear as party plaintiff in this suit. It is said that equity only interferes for the protection of property, and that the government has no property interest. A sufficient reply is that the United States have a property in the mails, the protection of which was one of the purposes of this bill. . . .

We do not care to place our decision on this ground alone. Every government, instructed by the very terms of its being with powers and duties to be exercised and discharged for the general welfare, has a right to apply to its own courts for any proper assistance in the exercise of the one and the discharge of the other, and it is no sufficient answer to its appeal to one of those courts that it has no pecuniary interest in the matter. The obligations which it is under to promote the interest of all and to prevent the wrongdoing of one, resulting in injury to the general welfare, is often of itself sufficient to give it a standing in court. . . .

That the bill in this case alleged special facts calling for the exercise of all the powers of the court is not open to question. The picture drawn in it of the vast interests involved, not merely of the city of Chicago and the state of Illinois, but of all the states, and the general confusion into which the interstate commerce of the country was thrown; the forcible interference with that commerce; the attempted exercise by individuals of powers belonging only to government, and the threatened continuance of such invasions of public right, presented a condition of affairs which called for the fullest exercise of all the powers of the courts. If ever there was a special exigency, one which demanded that the court should do all that courts can do, it was disclosed by this bill, and we need not turn to the public history of the day, which only reaffirms with clearest emphasis all its allegations

It must be borne in mind that this bill was not simply to enjoin a mob and mob violence. It was not a bill to command a keeping of the peace; much less was its purport to restrain the defendants from abandoning whatever employment they were engaged in. The right of any laborer, or any number of laborers, to quit work was not challenged. The scope and purpose of the bill was only to restrain forcible obstructions of the highways along which interstate commerce travels and the mails are carried. And the facts set forth at length are only those facts which tended to show that the defendants were most engaged in such obstructions.

A most earnest and eloquent appeal was made to us in eulogy of the heroic spirit of those who threw up their employment, and gave up their means of earning a livelihood, not in defence of their own rights, but in sympathy for and to assist others whom they believed to be wronged. We yield to none in our admiration of any act of heroism or self-sacrifice, but we may be permitted to add that it is a lesson which cannot be learned too soon or too thoroughly that under this government of and by the people the means of redress of all wrongs are through the courts and at the ballot-box, and that no wrong, real or fancied, carries with it legal warrant to invite as a means of redress the co-operation of a mob, with its accompanying acts of violence.

...

The petition for a writ of habeas corpus is denied.

The Sherman Anti-Trust Act (excerpt)

The U.S. attorney in Chicago cited the Sherman Anti-Trust Act as authority for the injunction restraining Debs and the other American Railway Union officers. The judges who issued the injunction also cited the authority of the act, and in his decision upholding the contempt, Judge William A. Woods concluded that the act gave the courts jurisdiction to issue injunctions against any group or conspiracy in restraint of trade. The act had its origins in congressional efforts to restrict the monopolies of the great trusts, such as Standard Oil, but a change in the language of the bill to read "trust or otherwise" rather than just "trust" gave the courts grounds to restrict labor strikes.

[Document Source: *U.S. Statutes at Large* 26 (1891): 209–10.]

Chap. 647. An Act to protect trade and commerce against unlawful restraints and monopolies. July 2, 1890.

Sec. 1. Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is hereby declared to be illegal. Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding

five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

Sec. 4. The several circuit courts of the United States are hereby invested with jurisdiction to prevent and restrain violations of this act; and it shall be the duty of the several district attorneys of the United States, in their respective districts, under the direction of the Attorney-General, to institute proceedings in equity to prevent and restrain such violations. Such proceedings may be by way of petition setting forth the case and praying that such violation shall be enjoined or otherwise prohibited. When the parties complained of shall have been duly notified of such petition the court shall proceed, as soon as may be, to the hearing and determination of the case; and pending such petition and before final decree, the court may at any time make such temporary restraining order or prohibition as shall be deemed just in the premises.

Recommendations of the United States Strike Commission

On July 26, 1894, following the end of the Pullman Strike, President Grover Cleveland appointed a commission to examine the causes and ramifications of the labor dispute. The Strike Commission held hearings in Washington and Chicago and solicited testimony from representatives of labor unions, including Debs, and members of the General Managers' Association. In November 1894, the commission delivered to the President its report, which the government soon published along with the testimony.

The first excerpt is the commission's comment on the need to respect and engage labor unions; the second excerpt is the formal recommendation of the commission.

[Document Source: United States Strike Commission, *Report on the Chicago Strike of June–July, 1894* (Washington, D.C.: Government Printing Office, 1895): XLVIII, LII-LIV.]

1.

However men may differ about the propriety and legality of labor unions, we must all recognize the fact that we have them with us to stay and to grow more numerous and powerful. Is it not wise to fully recognize them by law; to admit their necessity as labor guides and protectors, to conserve their usefulness, increase their responsibility, and to prevent their follies and aggressions by conferring upon them the privileges enjoyed by corporations, with like proper restrictions and regulations? The growth of corporate powers and wealth has been the marvel of the past fifty years. Corporations have undoubtedly benefited the country and brought its resources to our doors. It will not be surprising if the marvel of the next fifty years be the advancement of labor to a position of like power and responsibility. We have heretofore encouraged the one and comparatively neglected the other. Does not wisdom demand that each be encouraged to prosper legitimately and to grow into harmonious relations of equal

standing and responsibility before the law? This involves nothing hostile to the true interests and rights of either.

2. Recommendations of the Strike Commission

I.

- (1) That there be a permanent United States strike commission of three members, with duties and powers of investigation and recommendation as to disputes between railroads and their employees similar to those vested in the Interstate Commerce Commission as to rates, etc.
 - a. That, as in the interstate commerce act, power be given to the United States courts to compel railroads to obey the decisions of the commission, after summary hearing unattended by technicalities, and that no delays in obeying the decisions of the commission be allowed pending appeals.
 - b. That, whenever the parties to a controversy in a matter within the jurisdiction of the commission are one or more railroads upon one side and one or more national trade unions . . . upon the other, each side shall have the right to select a representative, who shall be appointed by the President to serve a temporary member of the commission in hearing, adjusting, and determining that particular controversy. . . .
 - c. That, during the pendency of a proceeding before the commission inaugurated by national trade unions, or by an incorporation of employees, it shall not be lawful for the railroads to discharge employees belonging thereto except for inefficiency, violation of law, or neglect of duty; nor for such unions or incorporation during such pendency to order, unite in, aid, or abet strikes or boycotts against the railroads complained of; nor, for a period of six months after a decision, for such railroads to discharge any such employees in whose places others shall be employed, except for the causes aforesaid; nor for any such employees, during a like period, to quit the service without giving thirty days' written notice of intention to do so, nor for any such union or incorporation to order, counsel, or advise otherwise.
- (2) That chapter 567 of United States Statutes of 1885–86 be amended so as to require national trade unions to provide in their articles of incorporation, and in their constitutions, rules, and by-laws that a member shall cease to be such and forfeit all rights and privileges conferred on him by law as such by participating in or by instigating force or violence against persons or property during strikes or boycotts, or by seeking to prevent others from working through violence, threats, or intimidations; also, that members shall be

no more personally liable for corporate acts than are stockholders in corporations.

- (3) The commission does not feel warranted, with the study it has been able to give the subject, to recommend positively the establishment of a license system by which all the higher employees or others of railroads engaged in interstate commerce should be licensed after due and proper examination, but it would recommend, and most urgently, that this subject be carefully and fully considered by the proper committee of Congress

II.

- (1) The commission would suggest the consideration by the States of the adoption of some system of conciliation and arbitration like that, for instance, in use in the Commonwealth of Massachusetts. That system might be reinforced by additional provisions giving the board of arbitration more power to investigate all strikes, whether requested so to do or not, and the question might be considered as to giving labor organizations a standing before the law, as heretofore suggested for national trade unions.
- (2) Contracts requiring men to agree not to join labor organizations or to leave them, as conditions of employment, should be made illegal, as is already done in some of our States.

III.

- (1) The commission urges employers to recognize labor organizations; that such organizations be dealt with through representatives, with special reference to conciliation and arbitration when difficulties are threatened or arise. It is satisfied that employers should come in closer touch with labor and should recognize that, while the interests of labor and capital are not identical, they are reciprocal.
- (2) The commission is satisfied that if employers everywhere will endeavor to act in concert with labor; that if when wages can be raised under economic conditions they be raised voluntarily, and that if when there are reductions reasons be given for the reduction, much friction can be avoided. It is also satisfied that if employers will consider employees as thoroughly essential to industrial success as capital, and thus take labor into consultation at proper times, much of the severity of strikes can be tempered and their numbers reduced.

Eugene V. Debs to Jean Daniel Debs, January 14, 1895

After Judge William A. Woods' ruling, Eugene V. Debs was sent to the McHenry County Jail in Woodstock, Illinois. Despite his defeat in the U.S. Circuit Court for the Northern District of Illinois, Debs remained optimistic. He tenderly responded to a letter from his father, an elderly shopkeeper in Terre Haute, Indiana. Governor Davis H. Waite was the Populist governor of Colorado.

[Document Source: J. Robert Constantine, ed., *Letters of Eugene V. Debs*, vol. 1 (Urbana: University of Illinois Press, 1990): 82–83.]

My dearest Father:

Your letter filled with kindness and cheer, characteristic of the stock, especially when the times are on that “try men’s souls,” is with me. I have immense satisfaction in knowing that you and mother, notwithstanding your years, are as proud, heroic and defiant as the rest of us and even our enemies admit that we have the courage of our convictions. My imprisonment is doing much to arouse the public conscience. No disgrace attaches to the family. You need not blush. In good times the right will prevail and then reward and vindication will come. A steady stream of letters is pouring in here from all parts of the country. No one can imagine what a wave of indignation is arising. Judge Woods is not so much at ease as I am. My jail quarters are large, airy, clean and comfortable and I am perfectly at home with the sheriff’s family whose residence adjoins the jail. Sunday Charley Gould was here and we spent the afternoon in the Sheriff’s parlors, regaling ourselves (after a good dinner of stuffed roast chicken) with a musical concert. Saturday Governor Waite of Colorado was with us from 11 to 2, taking dinner with us. He is a fine old man of about your age. He is chock full of fight and don’t care what the plutocratic press say about him. We may get out pending the decision of our case by the U.S. Supreme Court and in that event I will see you before the close of the week. The signs of the times are all hopeful and the future is full of cheer. You and mother must carry yourselves like the Spartans of old. This is not a time for sighs or tears but for heroic fortitude which does not waver, no matter how trying the ordeal. If the night is dark the dawn is near. Our day is coming. Just a little patience and we will celebrate our jubilee with becoming *eclat*.

My heart is with you always. Kisses to you both and to Eugenie. The jail but makes our attachment the stronger.

Your devoted son

Eugene

Eugene V. Debs on the role of the courts

After the Supreme Court had ruled, Eugene V. Debs and his fellow defendants were ordered to report to the McHenry County Jail in Woodstock, Illinois, to complete their sentences. The other defendants arrived on June 11, 1895, but Debs himself arrived a day later than the others. After serving his six-month sentence, Debs returned to his home and family in Terre Haute, Indiana, where on November 23, 1895, he gave the following speech.

[Document Source: Jean Y. Tussey, ed., *Eugene V. Debs Speaks* (New York: Pathfinder Press, 1970): 50–52.]

In our cases at Chicago an injunction was issued at a time when the American Railway Union had its great struggle for human rights and they were triumphant in restraining myself and colleagues from doing what we never intended to do and never did do; and then we were put in jail for not doing it.

When that injunction was served on me, to show that I acted in good faith, I went to two of the best constitutional lawyers in the city of Chicago and said, “What right, if any, have I under this injunction? I am a law-abiding citizen; I want to do what is right. I want you to examine this injunction and then advise me what to do.”

They examined the injunction. They said, “Proceed just as you have been doing. You are not committing any violence; you are not advising violence, but you are trying to do everything in your power to restrain men from the commission of crime or violating the law.” I followed their advice and got six months for it.

What does Judge Lyman Trumbull say upon that subject? Judge Trumbull is one of the most eminent jurists the country has produced. He served sixteen years in the United States Senate; he was chairman of the Senate Committee on [the] Judiciary; he was on the Supreme Bench of the state of Illinois; he has held all of the high offices but he is a poor man. There is not a scar or blemish upon his escutcheon. No one has ever impugned his integrity. What does he say about this subject?

To use his exact language he says: “The decision carried to its logical conclusion means that any federal judge can imprison any citizen at his own will. If this be true, it is judicial despotism, pure and simple, whatever you may choose to call it.”

When the trials were in progress at Chicago Mr. George M. Pullman was summoned to give some testimony. Mr. Pullman attached his car to the New York train and went East, and in some way the papers got hold of the matter and made some publication about it and the judge said that Mr. Pullman would be dealt with drastically. In a few days Mr. Pullman returned and he went into chambers, made a few personal explanations and that is the last we heard about it. Had it been myself, I would have to go to jail. That is the difference.

Only a little while ago Judge Henford cited Henry C. Payne, of the Northern Pacific, to appear before him to answer certain charges, and he went to Europe and is there yet. Will he go to jail on his return? Of course not. The reason suggests itself. If it were a railroad striker he would be in Woodstock instead of Berlin.

Governor Altgeld, in many respects the greatest governor in the United States, says: "The precedent has now been established any federal judge can now enjoin any citizen from doing anything and then put him in jail."

Now what is an injunction? It has all of the force and vital effect of a law, but it is not a law in and by the representatives of the people; it is not a law signed by a President or by a governor. It is simply the wish and will of the judge. A judge issues an injunction; serves it upon his intended victim. The next day he is arrested. He is brought into the presence of the same judge. Sentence is pronounced upon him by the same judge, who constitutes the judge and court and jury and he goes to jail and he has no right of appeal. Under this injunctive process the plain provisions of the Constitution have been disregarded. The right of trial by jury has been abrogated, and this is at the behest of the money power of the country.

What is the effect upon the workingmen and especially railway employees to bind them to their task? The government goes into partnership with a corporation. The workingmen are intimidated; if there is a reduction of wages they submit; if unjust conditions are imposed they are silent. And what is the tendency? To demoralize, to degrade workingmen until they have reached the very deadline of degradation.

And how does it happen and why does it happen that corporations are never restrained? Are they absolutely law-abiding? Are they always right? Do they never transgress the law or is it because the federal judges are their creatures? Certain it is that the united voice of labor in this country would be insufficient to name a federal judge. If all the common people united and asked for the appointment of a federal judge their voice would not be heeded any more than if it were the chirp of a cricket. Money talks. Yes, money talks. And I have no hesitancy in declaring that money has even invaded, or the influence, that power conferred by money, has invaded the Supreme Court and left that august tribunal reeking with more stench than Coleridge discovered in Cologne and left all the people wondering how it was ever to be deodorized.

There is something wrong in this country; the judicial nets are so adjusted as to catch the minnows and let the whales slip through and the federal judge is as far removed from the common people as if he inhabited another planet. As Boyle O'Reilly would say:

"His pulse, if you felt it, throbb'd apart
from the throbbing pulse of the people's heart."

Norris-LaGuardia Act, March 23, 1932 (excerpt)

In the midst of the Depression, and following a decade in which federal courts issued a record number of injunctions and restraining orders aimed at labor unions, Congress passed an act that narrowly restricted the use of such orders in labor disputes. The act included the following declaration of policy that guaranteed workers the rights of association and collective bargaining to balance the power of corporate association, which, as the act stated, had been developed with the help of the federal government. In addition to the declaration of policy, the act included a list of specific rights for striking workers.

[Document Source: *U.S. Statutes at Large* 47 (1932): 70.]

An Act To amend the Judicial Code and to define and limit the jurisdiction of courts sitting in equity, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no court of the United States, as herein defined, shall have jurisdiction to issue any restraining order or temporary injunction in a case involving or growing out of a labor dispute, except in a strict conformity with the provisions of this Act; nor shall any such restraining order or temporary or permanent injunction be issued contrary to the public policy declared in this Act.

Sec. 2. In the interpretation of this Act and in determining the jurisdiction and authority of the courts of the United States, as such jurisdiction and authority are herein defined and limited, the public policy of the United States is hereby declared as follows:

Whereas under prevailing economic conditions, developed with the aid of governmental authority for owners of property to organize in the corporate and other forms of ownership association, the individual unorganized worker is commonly helpless to exercise actual liberty of contract and to protect his freedom of labor, and thereby to obtain acceptable terms and conditions of employment, wherefore, though he should be free to decline to associate with his fellows, it is necessary that he have full freedom of association, self-organization, and designation of representatives of his own choosing, to negotiate the terms and conditions of his employment, and that he shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection; . . .

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